

October 8, 2021

CMRR# 7009 2250 0001 7210 6446

[lyskowski.daniel@epa.gov](mailto:lyskowski.daniel@epa.gov)

Mr. Danny Lyskowski  
Office of Regional Counsel  
Region 7  
United States Environmental Protection Agency  
11201 Renner Blvd.  
Lenexa, KS 66219

Re: Response to Request for Information Pursuant to Section 104(e)(2) of CERCLA  
42 U.S.C. § 9604 (e)(2)  
Cherokee County Superfund Site, Operable Unit 08 in Cherokee County, Kansas

Dear Mr. Lyskowski:

Attached as Exhibit A is Union Pacific Railroad Company's ("Union Pacific") response to the United States Environmental Protection Agency's ("EPA") Request for Information for the Cherokee County Superfund Site, Operable Unit 08, timely submitted pursuant to an agreed-upon extension until October 11, 2021.

### **GENERAL OBJECTIONS**

As an initial matter, Union Pacific makes the following general objections to the Request for Information, whether separately set forth in response to each and every question presented in the Request:

1. Privilege. Union Pacific objects to the Request, and to each paragraph therein, to the extent EPA seeks information or documents protected under the attorney-client privilege, the work product immunity or other privilege or immunity.
2. Scope. Union Pacific objects to the information requested and to each paragraph therein, to the extent that the EPA seeks information or documents outside the scope of EPA's authority under Section 104(e) of the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"), 42 U.S.C. § 9604(e).
3. Union Pacific objects to the Request to the extent it seeks information that is not in the possession, custody or control of Union Pacific.
4. Union Pacific has provided responsive information relevant to the Site as that area has been defined by EPA as being OU8, Cherokee County Superfund site located in Cherokee County, Kansas.

5. Union Pacific is responding to the Request to the best of its current knowledge, information and belief and based on its current investigation to date. Union Pacific's investigation is continuing. Union Pacific reserves the right to produce additional information and to make further objections if additional responsive information and documents are identified or located.

Please do not hesitate to contact me if you have any questions. Please address any future correspondence regarding the request or site to my attention.

Regards,

UNION PACIFIC RAILROAD COMPANY



Nicholas Bryan, Esq.  
Senior Environmental Counsel

Enclosures

## **EXHIBIT A**

Kansas, Oklahoma & Gulf Railway Company (KOG) to Texas and Pacific Railway Company (T&P)

1. Fully describe the nature of the sales and/or transactions that resulted in: 1) T&P owning the stock of KOG; and 2) KOG and T&P merging. State if the transaction consisted of a merger, consolidation, sale or transfer of assets, and submit all documents relating to such transactions, including all documents pertaining to any agreements, express or implied, for T&P to assume the liabilities of KOG. Without exclusion, this request includes any stock purchase agreement and any merger agreement between KOG and T&P.

### **UNION PACIFIC'S RESPONSE TO NO 1:**

T&P "owned" KOG because of a sale or transfer of all KOG assets. TP did not end up owning KOG stock or merging with T&P. T&P acquired the KOG business assets and assumed liabilities through a sale or transfer of assets/assumption of liabilities.

Bates UPRR 000001 - 000063

2. Provide any agreements between KOG and T&P specific to the Lawton Branch (a/k/a the Baxter Springs Branch). Without exclusion, this request includes any such agreements that were executed by T&P and/or the Muskogee Company.

### **UNION PACIFIC'S RESPONSE TO NO. 2:**

T&P merged with MoPac (Missouri Pacific Railroad Company) with MoPac being the surviving entity.

Bates UPRR 000064 - 000084

3. Provide any agreements between KOG or T&P and any railroad company relating to the usage of the Lawton Branch. Without exclusion, this request includes any such agreements that were executed by T&P and/or the Muskogee Company.

### **UNION PACIFIC'S RESPONSE TO NO. 3:**

MoPac merged with various railroads and was the surviving entity. MoPac then merged with an entity formed in Utah called Union Pacific Railroad Company (not the same as the current UPRR), with the Utah UPRR being the surviving entity. Utah UPRR then merged with and into Southern Pacific Transportation Company (SPT), with SPT being the surviving entity and

changing its name to Union Pacific Railroad Company, a Delaware corporation. Through a series of different mergers, MoPac, ultimately ended up merging with and into UPRR.

Bates UPRR 000085 - 000138

4. Provide any agreements between KOG or T&P and any other company relating to the transport of metals concentrates or mine chat on the Lawton Branch. Without exclusion, this request includes any such agreements that were executed by T&P and/or the Muskogee Company. Texas and Pacific Railway Company to Missouri Pacific Railroad Company (MoPac)

**UNION PACIFIC'S RESPONSE TO NO. 4:**

Union Pacific conducted an extensive search and no agreements have been located. We will continue to search and supplement as necessary.

5. Fully describe the nature of the sale and/or transaction between T&P and MoPac that resulted in the combination of the two entities. State if the transaction consisted of a merger, consolidation, sale or transfer of assets, and submit all documents relating to such transaction, including all documents pertaining to any agreements, express or implied, for MoPac to assume the liabilities of T&P.

**UNION PACIFIC'S RESPONSE TO NO. 5:**

Union Pacific conducted an extensive search and no agreements have been located. We will continue to search and supplement as necessary.

6. Provide any operating agreements existing between T&P and MoPac specific to the Lawton Branch (a/k/a the Baxter Springs Branch). Missouri Pacific Railroad Company to Union Pacific Railroad Company.

**UNION PACIFIC'S RESPONSE TO NO. 6:**

Union Pacific conducted an extensive search and no agreements have been located. We will continue to search and supplement as necessary.

7. Fully describe the nature of the sale and/or transaction between MoPac and UP that resulted in the combination of the two entities. State if the transaction consisted of a merger, consolidation, sale or transfer of assets, and submit all documents relating to such transaction, including all documents pertaining to any agreements, express or implied, for UP to assume the liabilities of MoPac.

**UNION PACIFIC'S RESPONSE TO NO. 7:**

Union Pacific conducted an extensive search and no agreements have been located. We will continue to search and supplement as necessary.



8. Provide any operating agreements existing between UP and MoPac specific to the Lawton Branch (a/k/a the Baxter Springs Branch). Shipping, construction and other documents.

**UNION PACIFIC'S RESPONSE TO NO. 8:**

Union Pacific conducted an extensive search and no agreements have been located. We will continue to search and supplement as necessary.

9. Identify all companies, firms, facilities and individuals who shipped or transported metals concentrates or mine chat for hauling or use at CCR OU8, including information regarding the following: a. Location and address of each such company or persons who sent such materials; b. Shipping records pertaining to such materials, including but not limited to invoices, bills of lading, weight tickets, and purchase orders; and Enclosure A Page 5 of 5 c. Any agreements relating to said materials.

**UNION PACIFIC'S RESPONSE TO NO. 9:**

Union Pacific conducted an extensive search, and no agreements have been located. We will continue to search and supplement as necessary.

10. Provide information about the construction and maintenance of rail lines at CCR OU8. a. Provide information about the use of mine chat for the construction or maintenance of rail lines at CCR OU8.

**UNION PACIFIC'S RESPONSE TO NO. 10:**

Union Pacific conducted an extensive search and no construction and maintenance records have been located. We will continue to search and supplement as necessary.  
The line from Columbus KS and Horn, MO was sold to the BN in 1989.

Bates UPRR 000139 - 000184

11. Identify all leaks, spills, or releases into the environment of any hazardous substances, pollutants, or contaminants that have occurred at CCR OU8. This includes metals concentrates and mine chat. For purposes of this request #11. a.—h., do not include information about the placement of materials for construction purposes unless such placement is associated with an accident or other unintentional release.

Identify:

- a. when such releases occurred;
- b. how the releases occurred (e.g. when the substances were being loaded, stored, delivered by a vendor, transported or transferred);
- c. the amount of each hazardous substances, pollutants, or contaminants so released;
- d. where such releases occurred;

- e. any and all activities undertaken in response to each such release or threatened release, including the notification of any agencies or governmental units about the release;
- f. any and all investigations of the circumstances, nature, extent or location of each release or threatened release including, the results of any soil, water (ground and surface), or air testing undertaken;
- g. all persons with information relating to these releases; and
- h. provide documents relevant to the foregoing, including accident reports, reports filed with any governmental entity (e.g. Interstate Commerce Commission), and internal investigation and review.

**UNION PACIFIC'S RESPONSE TO NO. 11:**

Union Pacific conducted an extensive search and was unable to locate any records of leaks, spills, or releases into the environment of any hazardous substances, pollutants, or contaminants that have occurred at CCR OU8. We will continue to search and supplement as necessary.

12. If any of the documents solicited in this information request are no longer available, please indicate the reason why they are no longer available. If the records were destroyed, provide us with the following: a. the document retention policy in place at the time of destruction; b. a description of how the records were destroyed (burned, trashed, etc.) and the approximate date of destruction; and c. a description of the type of information that would have been contained in the documents.

**UNION PACIFIC'S RESPONSE TO NO. 12:**

Union Pacific conducted an extensive search and no responsive information have been located. We will continue to search and supplement as necessary.

13. Identify additional repositories or persons that may possess copies of documents sought by this request (e.g., state historical societies, libraries, etc.)

**UNION PACIFIC'S RESPONSE TO NO. 13:**

Union Pacific conducted an extensive search, and no responsive information have been located. We will continue to search and supplement as necessary.

CLOSING AGREEMENT IN CONSUMMATION OF  
THE TEXAS AND PACIFIC - MUSKOGEE COMPANY STOCK  
PURCHASE AGREEMENT DATED SEPTEMBER 7, 1962

The Texas and Pacific Railway Company (hereinafter called T&P) and the Muskogee Company (hereinafter called Muskogee) execute this document to record that at a closing on the 25th day of September, 1964 (hereinafter called the closing date), at the office of the Muskogee Company, 607 Wilmington Trust Building, Wilmington, Delaware, the undersigned did acknowledge that the acts and things herein stated to have been done or performed by them respectively were so done or performed and that the various warranties, covenants and agreements made by them are the binding obligations of the respective parties.

(1) In exchange for the securities hereinafter listed in paragraph 2, Muskogee acknowledges receipt from T&P of \$9,500,000. Muskogee further acknowledges receipt from T&P of the additional sum of \$123,219.51 in lieu of one half year's dividends on Kansas, Oklahoma and Gulf Railway Company (hereinafter called KO&G) stock prorated from July 1, 1964 to the closing date, and \$11,748.72 in lieu of one year's dividends upon the Oklahoma City-Ada-Atoka Railway Company (hereinafter called OCAA) stock prorated from January 1, 1964 to the closing date, these payments to be considered to be a part of the T&P's purchase price.

(2) T&P acknowledges receipt from Muskogee of the following capital stock certificates of KO&G, Midland Valley Railroad Company (hereinafter called Midland Valley) and the OCAA all duly assigned to T&P or in blank:

KANSAS, OKLAHOMA & GULF RAILWAY COMPANY

<u>Type of Interest Stock</u>	<u>Number of Shares</u>
6% A Preferred Stock	27,142
6% B Preferred Stock	2,725
6% C Preferred Stock	57,294
3% Preferred Stock	26,156
Convertible Script	\$142.00

MIDLAND VALLEY RAILROAD COMPANY

<u>Type of Interest Stock</u>	<u>Number of Shares</u>
Preferred Stock	79,312
Common Stock	80,130

OKLAHOMA CITY-ADA-ATOKA RAILWAY COMPANY

<u>Type of Interest Stock</u>	<u>Number of Shares</u>
Capital Stock	16,000

Muskogee warrants that said stock certificates are free of all liens and incumbrances and constitute 100% of its financial interest in said companies.

(3) T&P acknowledges receipt from Muskogee of \$3,853.99 by check certified by Wilmington Trust Company, and certifies that it has caused United States Internal Revenue stamps in said total amount to be affixed to the stock certificates representing stock listed in paragraph 2 hereof on the basis of 4 cents per \$100 valuation.

(4) Muskogee acknowledges receipt of a duly certified copy of resolutions, the form of which is attached hereto as Exhibit 1, duly adopted by the Board of Directors of T&P at a meeting held September 25, 1962, authorizing the purchase of stock referred to in paragraph 2 above. Such resolutions are in full force and effect and have not been cancelled.

(5) T&P acknowledges receipt of resolutions, the forms of which are attached hereto as Exhibit 2, respectively duly adopted by the Board of Directors of Muskogee at a meeting held September 11, 1962 and by the stockholders of Muskogee at a meeting held October 2, 1962, authorizing the sale of stocks referred to in paragraph 2 above. Such resolutions are in full force and effect and have not been cancelled.

(6) Muskogee acknowledges receipt of a duly certified copy of the order of the Interstate Commerce Commission authorizing

control by acquisition of stock of KO&G, KO&G of Texas, Midland Valley and OCAA by T&P and sale of OCAA stock to, and control of OCAA by, the Atchison, Topeka and Santa Fe Railway Company.

(7) Muskogee acknowledges receipt of the Opinion of Counsel for T&P to the effect that all requisite approval by Federal or State regulatory agencies has been secured, which is attached hereto as Exhibit 3.

(8) T&P acknowledges receipt from Muskogee, on behalf of the respective companies, of the following resignations:

- (a) All Directors of KO&G, Midland Valley, KO&G of Texas, Sebastian County Coal and Mining Company (hereinafter called SCC&M), and OCAA.
- (b) All officers of the KO&G, Midland Valley, KO&G of Texas, SCC&M, and OCAA.

(9) T&P acknowledges receipt from Muskogee of the following KO&G, Midland Valley, KO&G of Texas, SCC&M and OCAA original books, records and property:

- Charter and Articles of Incorporation and all amendments to date.
- By-Laws and all amendments to date,
- Minute Books.
- Corporate Seals.
- Stock Transfer Books.
- Treasurers' Cash Book.
- Contents of all safe deposit boxes.

(10) Muskogee hereby certifies that each and every of the books and records referred to in paragraph 9 are the true and complete original documents.

(11) T&P acknowledges receipt from Muskogee, on behalf of the respective companies, of the treasury bills, temporary investments, notes, securities, and insurance policies owned by KO&G, Midland Valley, OCAA and SCC&M as listed on Exhibit 4.

(12) Muskogee certifies that all bank accounts of KO&G, Midland Valley, OCAA and SCC&M have been transferred to accounts in Muskogee, Oklahoma, subject to withdrawal by duly elected officers of each respective company.

(13) T&P acknowledges receipt of a duly executed certificate from the Girard Trust Bank, Trustee under KO&G's mortgage of April 1, 1926 and the supplements thereto of date July 1, 1928 and May 1, 1945 in the form which is attached hereto as Exhibit 5.

(14) Muskogee warrants that no actionable default is continuing under the terms of said mortgage and supplements and attached hereto as Exhibit 6 is the opinion of counsel for Muskogee to such effect.

(15) Muskogee represents that the attached balance sheets and income statements of KO&G, Midland Valley, OCAA and SCC&M are

to the best of Muskogee's information and belief, full, true and correct statements of the records of the several companies and that the said statements with respect to the railroads are those currently supplied to the Interstate Commerce Commission. Muskogee further warrants that during the term of the Stock Purchase Agreement with T&P dated September 7, 1962, it has not caused or permitted operation of KO&G, Midland Valley and OCAA in an imprudent or inefficient manner; that it has not caused or permitted any extraordinary or unusual expenses to be incurred in the operation of said railroads and that there has been no unreasonable increases in the salaries of personnel of said railroads, executive or otherwise. Muskogee further warrants that the financial condition, capitalization and net current assets position of KO&G, Midland Valley and OCAA are substantially the same as disclosed in the memorandum attached to said Stock Purchase Agreement and that the net current assets position of said companies are not substantially less favorable than as indicated by said memorandum attached to said Stock Purchase Agreement, subject only to such changes as may have resulted from the normal conduct of business of said railroads and subject to the payment by KO&G and OCAA of the same dividends as paid in 1961.



(16) Muskogee hereby covenants and agrees that any and all tax refunds, including interest thereon, arising from or attributable to the business of the KO&G, KO&G of Texas, Midland Valley, OCAA and SCC&M received by Muskogee from the Treasury Department of the United States or the Internal Revenue Service after the date of closing will forthwith be paid by Muskogee to the company for the account of which the refunded tax was paid, and Muskogee disclaims any right to retain such claims and binds itself and its successors and assigns to the due and prompt payment thereof upon receipt. Muskogee warrants that it has not as yet received any refund of Federal income taxes attributable to the 1956 through 1961 audit. T&P hereby assumes full responsibility for and the cost and expense of diligently processing with said Treasury Department, Internal Revenue Service, and/or any Court of competent jurisdiction any and all claims for all refunds now pending or which in the future may be filed. Muskogee further agrees to keep T&P fully advised of all information received by Muskogee with respect to the status of all claims and, upon written request by T&P and at T&P's sole cost and expense to cooperate with T&P in the prosecution in its name of all claims or at T&P's request to execute such documents as may be necessary and lawful to permit the railroad entitled to such claim for

refund to prosecute the same in such railroad's own name, to execute and deliver such pertinent documents as T&P in its judgment shall deem necessary or advisable with respect to such refunds and to furnish T&P with all relevant information in Muskogee's control. Muskogee further agrees that it will do nothing whatsoever to affect adversely any and all rights it now has, or in the future will have, in any claim against the United States for such tax refunds, including interest thereon, without the written consent of T&P.

(17) T&P agrees that it will pay or cause to be paid when lawfully due any and all tax deficiencies, including penalties and interest, arising out of or attributable to the business of KO&G, KO&G of Texas, Midland Valley, OCAA and SCC&M assessed upon them or upon Muskogee by the Treasury Department or Internal Revenue Service after the date of closing, and T&P hereby assumes full responsibility for and the cost and expense of defending against all such deficiencies. T&P agrees to defend, indemnify and hold harmless Muskogee and its directors, officers and stockholders from and against any and all loss, damage, expense, demands, forfeitures, penalties and judgments of any kind or character whatsoever arising out of such tax deficiencies. Muskogee agrees to keep T&P fully advised of all information received by Muskogee with respect to

such deficiencies and, upon written request by T&P and at T&P's sole cost and expense, to cooperate with T&P in using lawful means for avoiding the assessment of such deficiencies and for defending against such assessments, to execute and deliver such pertinent documents as T&P in its judgment shall deem necessary or advisable with respect to such assessments, and to furnish T&P with all relevant information in Muskogee's control.

(18) Muskogee further covenants and agrees that at its expense it will file for that part of the 1964 taxable year to the closing date a consolidated Federal income tax return for and on behalf of itself and KO&G, KO&G of Texas, Midland Valley, OCAA or SCC&M with the Internal Revenue Service. Muskogee will request a quick audit immediately after the filing of its 1964 consolidated Federal income tax return and T&P will pay all accounting expenses with respect to all Federal tax audits, to be reimbursed, however, by Muskogee for any reasonable portion of such expenses created by or attributable to the separate income, expenses or transactions of Muskogee.

(19) Muskogee's obligations under or in connection with this Closing Agreement shall continue until the expiration of three years after the closing date and thereafter as may be permitted under the laws of the State of Delaware. Nothing in this Closing

Agreement shall interfere with the proposed dissolution of Muskogee in accordance with the Delaware Corporation Law at any time after the closing date. The undersigned recognize that the Delaware Corporation Law provides that, with respect to any action, suit or proceeding begun by or against a Delaware corporation prior to the expiration of three years after the date of its dissolution, the corporation shall, for the purpose of such action, suit or proceeding, be continued a body corporate beyond such three-year period and until any judgments, orders or decrees in such action, suit or proceeding shall be fully executed.

The undersigned hereby approve the foregoing and hereby respectively certify that the acts and things hereinabove stated to have been done or performed by them have been so done or performed, or are done or performed by the execution hereof, and that the warranties, covenants and agreements of the respective parties are their respective obligations.

Attest:

  
C. M. Moore  
Assistant Secretary

Attest:

H. J. J. J. J.  
Secretary

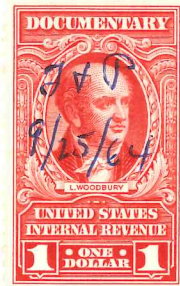
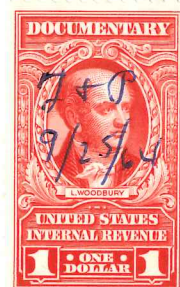
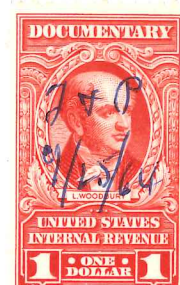
THE TEXAS AND PACIFIC RAILWAY COMPANY

By J. F. Finegan  
Vice President

MUSKOGEE COMPANY

By C. E. Rogers  
President





STATE OF MISSOURI )  
                              : SS  
CITY OF ST. LOUIS )

I, C. A. Rockwell, do hereby certify that I am Assistant Secretary of The Texas and Pacific Railway Company; that the attached is a true, correct and complete copy of resolutions adopted at meeting of Board of Directors of said Company held at Dallas, Texas, on September 25, 1962.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the corporate seal of The Texas and Pacific Railway Company this 21st day of September, 1964.



C. A. Rockwell

Purchase of stock of Kansas, Oklahoma  
& Gulf Railway Company, Midland Valley Railroad  
Company and Oklahoma City-Ada-Atoka Railway Company

The President called attention to the proposed stock control by this Company of the Kansas, Oklahoma & Gulf Railway Company, the Midland Valley Railroad Company, and the Oklahoma City-Ada-Atoka Railway Company.

Whereupon, after discussion, and on motion duly seconded, it was

RESOLVED, That the action of the President in the execution of a Stock Purchase Agreement dated September 7, 1962, with the Muskogee Company for the purchase of all capital stock presently owned by Muskogee Company in the Kansas, Oklahoma & Gulf Railway Company, the Midland Valley Railroad Company, and the Oklahoma City-Ada-Atoka Railway Company for \$9,500,000 cash, be, and the same hereby is, approved, ratified and confirmed;

RESOLVED, That J. T. Suggs, President, or J. J. Finegan, Vice President, be, and they each hereby are, authorized, subject to the prior approval thereof by the Interstate Commerce Commission, to make and deliver, on behalf of this Company a promissory note in an amount not to exceed \$9,500,000, bearing interest at a rate and under such terms and conditions as the proper officers of this Company shall deem to be in the best interest of this Company; the funds so obtained to be used to purchase stock of the Kansas, Oklahoma & Gulf Railway Company, the Midland Valley Railroad Company, and the Oklahoma City-Ada-Atoka Railway Company from the Muskogee Company;

RESOLVED, That J. T. Suggs, President, or J. J. Finegan, Vice President, be, and they each hereby are, authorized, for and on behalf of this Company, to make, sign, verify and file with the Interstate Commerce Commission, an application under Section 5(2) of the Interstate Commerce Act, for authority for this Company to acquire stock control of the Kansas, Oklahoma & Gulf Railway Company, the Midland Valley Railroad Company, and the Oklahoma City-Ada-Atoka Railway Company, and any and all other applications supplemental thereto or amendatory thereof;

RESOLVED, That J. T. Suggs, President, or J. J. Finegan, Vice President, be, and they each hereby are, authorized for and on behalf of this Company, to make, sign, verify and file with the Interstate Commerce Commission, an application under Section 20(a) of the Interstate Commerce Act for approval and authorization to issue a promissory note in an amount not to exceed \$9,500,000; the funds so obtained to be used to purchase the stock of the Kansas, Oklahoma & Gulf Railway Company, the Midland Valley Railroad Company, and the Oklahoma City-Ada-Atoka Railway Company from Muskogee Company, and any and all applications supplemental thereto or amendatory thereof;

RESOLVED, That the proper officers of the Company are authorized to execute, deliver, file, record, approve or consent to or to cause to be executed, delivered, filed, recorded, approved or consented to, under the corporate seal or otherwise, any and all contracts, agreements, instruments, documents and papers, including supplements, and to do or to cause to be done all such acts and things as may be necessary or appropriate in order to carry out the foregoing.



Closing Agreement dated Sept. 25, 1964, between The Texas and Pacific Railway Company and Muskogee Company, covering purchase of stock by T. and P. of Kansas, Oklahoma & Gulf Railway Company, Midland Valley Railroad Company and Oklahoma City-Ada-Atoka Railway Company

- Exhibit 4 - List of Securities
- Exhibit 5 - Ctf. of Girard Trust Bank re First Mortgage Bonds of K. O. & G. Ry. Co. issued and outstanding.
- Exhibit 6 - Opinion of Counsel re sinking fund payments First Mortgage of K. O. & G. Ry. Co.
- Balance Sheets and Income Statements as of 7-31-64 of K. O. & G. Ry. Co., Midland Valley R. R. Co., Oklahoma City-Ada-Atoka Ry. Co. and Sebastian County Coal and Mining Company
- Discharge dated 9/25/64 of Mortgage dated October 1, 1945 of Muskogee Company to Fidelity-Philadelphia Trust Company.



M. P.

STOCK PURCHASE AGREEMENT

THIS AGREEMENT, made and entered into this 7th day of September, 1962, by and between The Texas and Pacific Railway Company, hereinafter called "T&P" and the Muskogee Company, hereinafter called "MUSKOGEE",

W I T N E S S E T H:

WHEREAS, T&P is a corporation created and existing under and by virtue of Acts of Congress of the United States of America, and is a common carrier by railroad subject to Part I of the Interstate Commerce Act, owning and operating approximately 1,800 miles of track extending from El Paso, Texas, on the west through Fort Worth, Dallas, and Shreveport to New Orleans, Louisiana on the east, and northward from Marshall and Fort Worth into Texarkana and Denison, Texas, and

WHEREAS, Muskogee is a holding company incorporated under the laws of the State of Delaware, and owns and holds 97% or more of the capital stock of the Kansas, Oklahoma & Gulf Railway Company, the Midland Valley Railroad Company, and the Oklahoma City-Ada-Atoka Railway Company together with certain other securities of the first two named companies, and

WHEREAS, subject to prior approval of the Interstate Commerce Commission, T&P desires to purchase the entire interest of the Muskogee in said three railroads, and

WHEREAS, the purpose of this agreement is to set

forth the terms and conditions under which the above mentioned transaction may occur,

NOW, THEREFORE, in consideration of the mutual benefits flowing to each party by virtue hereof, and of the sum of Ten (\$10.00) Dollars cash in hand paid to Muskogee, it is agreed by and between the parties hereto as follows:

#### ARTICLE I

##### SALE OF STOCK AND OTHER INTERESTS

(a) Muskogee agrees and promises to sell to T&P, and T&P agrees and promises to purchase from Muskogee, all capital stock (as hereinafter set forth) presently held by Muskogee in the following three operating railroads,

##### KANSAS, OKLAHOMA & GULF RAILWAY CO.

<u>Type of Interest</u>	<u>Number Shares Issued</u>	<u>Approx. % of Muskogee Ow- nership</u>	<u>Amount</u>
<u>Stock</u>			
6% A Preferred Stock	28,311	96	2,707,800
6% B Preferred Stock	2,817	97	272,500
6% C Preferred Stock	57,483 - 3	99	5,729,400
3% Preferred Stock	26,180 - 1	99	2,615,600
Convertible Script			84

##### MIDLAND VALLEY RAILROAD CO.

<u>Type of Interest</u>	<u>Number Shares Issued</u>	<u>Approx. % of Muskogee Ow- nership</u>	<u>Amount</u>
<u>Stock</u>			
Preferred Stock	79,985	99	3,965,600
Common Stock	80,130	100	4,006,500

OKLAHOMA CITY-ADA-ATOKA RAILWAY COMPANY, INC.

<u>Type of Interest</u>	<u>Number Shares Issued</u>	<u>%</u>	<u>Amount</u>
<u>Stock</u>			
Capital Stock	16,000	100	1,600,000

(b) The total purchase price to be paid for the above mentioned stock is Nine Million Five Hundred Thousand (\$9,500,000) Dollars, in cash, paid by the T&P.

(c) Within 30 days after final approval of the purchase and sale herein proposed by the Interstate Commerce Commission, any other federal or state regulatory body having jurisdiction, and the necessary and respective Board of Directors of the Parties who must approve the transaction, Muskogee shall deliver to T&P certificates for the total number of shares owned by Muskogee in the above mentioned three railroads, and T&P shall deliver to Muskogee the sum of Nine Million Five Hundred Thousand (\$9,500,000) Dollars to be paid by the T&P.

ARTICLE II

INTERSTATE COMMERCE COMMISSION APPROVAL

(a) T&P agrees promptly to seek approval of the Interstate commerce Commission for the sale and purchase of the stock above mentioned and for the right to acquire control of the aforesaid railroads, and will cause to be prepared and filed and prosecuted such application or applications as may be necessary to secure the approval of the Interstate Commerce Commission; however, both parties agree they and those they control will

execute such instruments and do such things as are reasonably proper and necessary for the successful prosecution of such application or applications, and furnish, at their own expense, such witnesses as will be necessary to testify at any hearing or hearings held thereon.

(b) Should the Interstate Commerce Commission, by valid order, finally refuse to grant the authorization necessary to consummate the sale and purchase of the above mentioned stock, this agreement shall be null and void.

#### WARRANTIES

(a) Muskogee warrants and agrees that the statements made herein concerning the number of outstanding shares, the number of shares owned and the percentage of its ownership in each of the three said railroads are true and correct; that it owns such shares representing the approximate percentages of ownership herein set forth fully and completely and that said stocks and other interests will not be at the time of delivery to the T&P pledged as security or otherwise encumbered in any manner, and that it has good right and authority to sell and convey the same. Muskogee further warrants the material and intent set out in their memorandum of August 22, 1962, the basis of this agreement, except that the purchase price is to be Nine Million Five Hundred Thousand (\$9,500,000) Dollars instead of Eleven Million (\$11,000,000) Dollars as evidenced by the attached Exhibit A, part of this agreement.

ARTICLE III

MISCELLANEOUS

(a) Muskogee further agrees that prior to consummation of the transactions herein contemplated, it will not cause or permit the operation of any or all of said three railroads in an imprudent or inefficient manner, and that it will neither permit nor cause extraordinary or unusual expenses to be incurred in the operation of said roads without prior notice to T&P, that no dividends will be paid by said roads in excess of those dividends, if any, paid in 1961, and that there will be no unreasonable increases in the salaries of the personnel of these railroads, executive or otherwise.

(b) It is further agreed that the financial condition, capitalization and net current assets position of the Kansas, Oklahoma & Gulf Railway Company, Midland Valley Railroad Company and Oklahoma City-Ada-Atoka Railway Company, Inc., at the closing herein provided for shall be substantially the same as is disclosed in the memorandum attached hereto as Exhibit A, and the net current asset position of said three railroad companies, at the closing date, shall not be substantially less favorable than as is indicated by said memorandum attached as Exhibit A; subject, however, both as to properties and assets and net current asset position to such changes as may result from normal conduct of the business of said three railroad companies and subject to the right of the railroad to pay such dividends as were paid in 1961.

(c) THIS AGREEMENT, and the provisions hereof, shall inure to and be binding upon the respective successors and/or

assigns of the parties hereto.

(d) In addition to all other agreements made herein, each party agrees to execute or cause the execution of all and any additional, supplemental or other instruments, writings, applications, conveyances or documents whatsoever which may be necessary or convenient to carry out the intents and purposes of this agreement.

(e) This agreement shall last and be effective until final disposition of the applications to the Interstate Commerce Commission herein mentioned, by all necessary parties and those who control said parties, and should the authority there sought be denied, or should legislative action make it impossible for one carrier to obtain control of another, this agreement shall be null and void and neither party shall be entitled to any claim or cause of action against the other, but should the authorization sought be granted then the terms and provisions hereof shall continue to be binding and effectual until fully carried into effect, and shall be enforceable by specific performance.

In witness whereof this instrument is executed this

7<sup>th</sup> day of September, 1962.

MUSKOGEE COMPANY

BY

C. C. Rogers

THE TEXAS AND PACIFIC RAILWAY COMPANY

BY

J. V. Auger

In All Respects Approved:

MISSOURI PACIFIC RAILROAD COMPANY

BY

D. B. Jenkins

Ex. A

August 22, 1962

MEMORANDUM:

Stock Ownership  
KO&G

<u>Security Outstanding</u>	<u>Muskogee Owns</u>	<u>Public Owns</u>
28,311 shs. Series A. cum. 6% pfd. par \$100 (no dividend accrued) 6% paid since 1928	27,078 shs.	1,233 shs.
2,817 shs. Series B non cum. pfd. par \$100 6% dividend paid since 1930	2,725 shs.	92 shs.
57,488 shs. Series C non cum. pfd. par \$100 Dividend paid in varying amounts annually since 1930. 1956-1961, 6%	57,294 shs.	194 shs.
26,187 shs. pfd. stock par \$100. Dividends have varied. 1959-1960 6%	26,156 shs.	31 shs.
No common shares	<u>113,253 shs.</u>	<u>1,550 shs.</u>

Stock liability for conversion \$116,434.

First mortgage bonds in hands of public 3 5/8% due 1980  
\$3,215,000.



Midland Valley Railroad

<u>Security Outstanding</u>	<u>Muskogee Owns</u>	<u>Sebastian Owns</u>	<u>Public Owns</u>
*79,965 shs. non cum. 5% pfd. par \$50	79,312 shs.	20 shs.	653 shs.
80,130 shs. common par \$50	80,130 shs.		None

\*20 shs. owned by Sebastian County Coal and Mining Co., a wholly owned subsidiary of Midland.

No dividend paid on Midland since 1931. Earnings have been plowed back in reduction of bonded indebtedness. As of December 31, 1931 the Midland outstanding bonded indebtedness in hands of public was:

First mortgage bonds	\$6,715,000
Series A bonds	1,552,500
Series B bonds	879,000
Total	<u>\$9,146,500</u>

By purchases this indebtedness had been reduced as of August 16, 1962 to:

First mortgage bonds	\$709,000
Series A bonds	131,500
Series B bonds	44,500
Total	<u>\$885,000</u>

OCA&A

<u>Security Outstanding</u>	<u>Muskogee Owns</u>	<u>Public Owns</u>
16,000 shs. common stock \$100 par	16,000 shs.	None

No bonded indebtedness.



1.5  
2.1  
3.0

Main Line Mileage

KO&G from Okay to Denison	202.7 miles
MV	334 miles
OCA&A	104 miles
Total	640.7 miles

7.00

1970.00

Working Capital Exclusive of material and Supplies as of June 30, 1962 (No material change since that date)

	<u>WORKING CAPITAL</u>
KO&G, including \$1,820,730 of cash and high class state and municipal bonds	\$1,859,072
MV (cash and high class state and municipal bonds \$206,331)	minus 173,366
OCA&A (cash \$95,966)	36,822
Total net working capital	<u>\$1,722,528</u>
Total cash and high class state and municipal bonds	\$2,123,027

(All bills paid currently and on discount basis)

The three railroads own diesel equipment as follows:

<u>No. of Units</u>	<u>Power</u>	<u>Date Acquired</u>
4 F7A units	1500 HP	1949
2 F7B units	1500 HP	1949
1 Switch Engine	1000 HP	1949
13 GP7's	1500 HP	1952-3

22 Debt against above equipment as of August 16, 1962 \$56,250.

Midland Valley owns all stock and bonds of Sebastian County Coal and Mining Company which owns approximately 9,000 acres of surface and approximately 18,000 acres of coal, gas and oil lands in Sebastian County, Arkansas. A substantial part is presently under lease to Ohio Oil Company. Little gas or oil production as yet, but approximately

\$18,432.12 of gas and oil royalties and rentals in year 1961. Coal royalties in 1961 \$6,783.27. The coal on southern end of Midland is by no means exhausted.

MV owns Muskogee yards; 29 acres in Tulsa proper; approximately 80 acres of industrial land adjoining track at Tulsa; 113 acres industrial land at Skitook, 15 miles north of Tulsa; and 211 acres of industrial land in Muskogee.

KO&G owns 78 acres of industrial land on Arkansas River at Muskogee adjoining KO&G spur track.

At Muskogee, Midland owns substantial segments of a right of way to Callery Chemical plant to be used if, as and when that \$38,000,000 plant is activated.

OCA&A has only rail entrance to Tinker's Field at Oklahoma City. If this access were sold to Rock Island or Santa Fe, there would be practically no construction costs to be met by the purchasing road.

Total 1961 payroll on the three railroads \$2,889,473, or 44 cents per dollar of gross revenue.

As of July 15, 1962, the total number of employees on the payroll of the three railroad companies was 332. Of these, 235 were on the payroll of the Midland Valley, 72 on the payroll of the KO&G and 25 on the payroll of the OCA&A.

Of the 235 on the payroll of the Midland Valley, 174 were engaged in joint facility work.

Payments to the 174 employees involved in joint facility work is initially made by Midland, it being reimbursed by KO&G and OCA&A on ratio bases.

#### Mortgage Status

KO&G's first mortgage 3 5/8% due 1980 has a sinking fund requirement of \$66,000 per annum. The original issue of date the first day of May, 1945 was \$4,400,000. The mortgage is callable in 1963 at 102 1/4%. Presently outstanding, \$3,215,000.

KO&G is under contract to receive \$3,100,000 on transfer to the Grand River Dam Authority of that part of the right of way that is to be inundated by the Grand River Dam. The estimated value of the scrap on the property to be abandoned, after cost of removal, is \$773,378. The northern end of the line, 6.65 miles from Baxter Springs to Military Junction, is now under lease to the Kansas City Southern at approximately \$15,000 per annum. The Kansas City Southern is studying its purchase.

Under the Grand River Dam contract \$1,000,000 has been paid. The railroad company has deposited this \$1,000,000 with the mortgage trustee.

The above receipts will be amply sufficient to call and pay off the KO&G mortgage if deemed advisable, and to meet the Burlington conditions arising from the abandonment. If it was deemed inadvisable



to pay off the KO&G mortgage, we are satisfied that by reason of additions and betterments made since the creation of the mortgage, all of these receipts would be available to the company. Thus the working capital of the KO&G, exclusive of materials and supplies, would be increased to upwards of \$4,959,072 and the KO&G would own upwards of \$4,920,730 in cash and high class municipal and state bonds. We are satisfied that the excess from scrap and probable sale to the Kansas City Southern after deduction of Burlington conditions charges would increase the working capital figure to well above \$5,000,000.

It is expected that by reason of the abandonment, the KO&G will have available to it a substantial tax credit, but no assurance can be given of that fact.

The three railroads together would own upwards of \$5,223,027 of cash and state and municipal bonds.

The Midland owns 38,250 shares of Muskogee stock. It is proposed that Muskogee would purchase those shares from Midland for sufficient cash to pay off the \$885,000 of Midland bonds, the total outstanding bonds in the hands of the public due April 1, 1963. As part of the purchase price, Muskogee would surrender to the Midland \$296,000 the first mortgage, Series A and Series B bonds which it owns.

On the above basis, the Midland and the OCA&A would be clear of all bonded indebtedness and the KO&G could be made clear if it was deemed advisable to use the Grand River Dam Authority money to

pay off the mortgage - all without disturbing the working capital position of any of the three roads.

Our offer is based on the understanding that the purchaser would desire the KO&G mortgage to remain.

We would be prepared to sell all of our holdings of the stocks of the railroads owning 640.7 miles of railroad, the diesel equipment above referred to, the City of Muskogee yards, the real estate above referred to and the Sebastian County Coal and Mining Company property and cash and state and municipal bonds now totalling approximately \$5,223,027 all for the price of \$11,000,000.

This memorandum is intended as a summary description and is subject to your investigation of all facts involved.



RECEIVED

1306A

NOV 2 1964

Office of Secretary

Muskogee, Oklahoma, November 24, 1964

Mr. C. A. Rockwell:

I am enclosing, as requested by yours of November 12, photostat copy of Kansas Secretary of State's letter approving withdrawal of the Kansas, Oklahoma & Gulf Railway Company from the State of Kansas.

I handed to you yesterday certificate showing that the Sebastian County Coal & Mining Company was qualified to do business in the State of Oklahoma, and also the approval of extension of permission for the Midland Valley to do business in the State of Kansas.

We have not as yet located the certificate from the Secretary of State of Oklahoma qualifying the Midland Valley to do business in Oklahoma, and in order to avoid any further time here, it would be appreciated if you would request certified copy from the Secretary of State's office in Oklahoma City.

*Have*

*R. H. Loman*  
*for*

UPRR 000028



STATE OF KANSAS  
OFFICE OF SECRETARY OF STATE  
TOPEKA

PAUL R. SHANAHAN  
SECRETARY OF STATE



Kansas, Oklahoma & Gulf Railway Company  
Muskogee, Oklahoma

Attention: James D. Gibson, General Attorney

Dear Sir:

The Secretary of State's approval of the withdrawal  
application of KANSAS, OKLAHOMA & GULF RAILWAY COMPANY  
has been published in the official state paper under date  
of JANUARY 3, 1964.

Therefore, in accordance with the statutes, the effective  
date of withdrawal is January 3, 1964 and our  
records have been marked accordingly.

Very truly yours,

A handwritten signature in cursive script that reads "Paul R. Shanahan".

PAUL R. SHANAHAN  
SECRETARY OF STATE

PRS: cab



STATE OF KANSAS  
OFFICE OF SECRETARY OF STATE  
TOPEKA

PAUL R. SHANAHAN  
SECRETARY OF STATE



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Muskogee, Oklahoma

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date of withdrawal is January 3, 1964 and our  
records have been marked accordingly.

Very truly yours,

A handwritten signature in dark ink that reads "Paul R. Shanahan".

PAUL R. SHANAHAN  
SECRETARY OF STATE

PRS: cab



SERVICE DATE  
APRIL 2, 1965

CERTIFICATE AND ORDER

At a Session of the INTERSTATE COMMERCE COMMISSION, Finance Board No. 3, held at its office in Washington, D. C., on the 30th day of March, A. D. 1965.

Finance Docket No. 23337

KANSAS, OKLAHOMA & GULF RAILWAY CO., ET AL.  
ABANDONMENT BETWEEN DURANT, OKLA., AND DENISON, TEX., ETC.

Upon consideration of the joint application filed under section 1(18) of the Interstate Commerce Act on October 16, 1964, as supplemented, (1) by the Kansas, Oklahoma & Gulf Railway Company (Kansas, Oklahoma & Gulf), a common carrier by railroad subject to part I of the act and controlled through stock ownership by The Texas and Pacific Railway Company (Texas & Pacific), to abandon the portion of its main line extending from Durant, Okla. (Mile Post 298.4) southerly 17.1 miles to the Oklahoma-Texas State Line (Mile Post 315.5), said line being in Bryan County, Okla.; (2) by the Kansas, Oklahoma and Gulf Railway Company of Texas (Kansas, Oklahoma & Gulf of Texas), and its proprietary company, Kansas, Oklahoma & Gulf, for the former to abandon, and the latter, as lessee, to abandon operations over, the entire line of railroad in interstate or foreign commerce, extending from a connection with the parent company at the Oklahoma-Texas State Line to Denison, Texas, approximately 9.1 miles, in Grayson County, Texas; and (3) by The Denison and Pacific Suburban Railway Company (Denison & Pacific) also a common carrier subject to part I and a wholly-owned subsidiary of the Texas & Pacific, to abandon its entire line of railroad in interstate and foreign commerce extending from a connection with its parent at Sherman Junction, Texas, to Denison, Texas, where it connects with the line proposed to be abandoned by the Kansas, Oklahoma & Gulf of Texas, a distance of approximately 7.3 miles, all in the State of Texas; and of protests to said application filed by the Railway Labor Executives' Association and the Brotherhood of Locomotive Engineers on the ground that the proposed abandonments, if permitted, would have an adverse effect upon the employees of applicants; and

It appearing, and the Board so finds, that a hearing is not necessary in the public interest; that no passenger service has been rendered on the lines for several years; that the freight service on the lines is declining; that the service on these lines has been rendered unnecessary since a joint track agreement between the Missouri-Kansas-Texas Railroad Company, the Kansas, Oklahoma & Gulf, and the Texas & Pacific, approved by this Commission in Finance Dockets No. 22919, 22920, and 22921, on April 29, 1964, permits all overhead or bridge traffic presently moving on the lines proposed to be abandoned, to be continued over the tracks of the Missouri-Kansas-Texas Railroad Company between Durant, Okla., and Denison, Tex., thence to Whitesboro, Tex.,

cc  
1- Mr. Mowbray  
1- Mr. Sullivan  
1- C. H. Butler  
1- M. E. Parker

where connection is made with trackage of Texas & Pacific for further movements southward; that the one shipper situated on the tracks of the Kansas, Oklahoma & Gulf of Texas to be affected by an abandonment has sufficient alternate rail service; that there is other sufficient alternate rail and motor carrier service in the involved area; that the interrelated abandonment proposals are such that the need and justification for protecting the employees of the Denison & Pacific and the Kansas, Oklahoma & Gulf of Texas upon the abandonment of the entire line of each is no different from the need and justification that there would be for protecting employees of the immediate proprietary company of each if it were abandoning a portion of its own corporate lines (cf. Finance Docket No. 22125, East Carolina Railway Abandonment of Entire Line Between Tarboro and Farmville, North Carolina, \_\_\_\_\_ I.C.C. \_\_\_\_\_, decided July 1, 1964); that the interest of all employees adversely affected by the proposals will be protected by the imposition of appropriate conditions; and that under the circumstances the continued operation and maintenance of the lines would impose an undue and unnecessary burden upon interstate commerce:

It is hereby certified, That, subject to the same conditions for the protection of employees as set forth in Chicago, B. & O. R. Co. Abandonment, 257 I.C.C. 700, the costs of which in the case of the Kansas, Oklahoma & Gulf and the Kansas, Oklahoma & Gulf of Texas are to be borne by the Kansas, Oklahoma & Gulf, and in the case of Denison & Pacific are to be borne by the Texas & Pacific, the present and future public convenience and necessity permit (1) the abandonment by the Kansas, Oklahoma and Gulf Railway Company of that portion of its line of railroad in Bryan County, Okla.; (2) abandonment by the Kansas, Oklahoma and Gulf Railway Company of Texas and abandonment of operations by the Kansas, Oklahoma and Gulf Railway Company (lessee) of the entire line of railroad of the former in interstate and foreign commerce; and (3) abandonment by The Denison and Pacific Suburban Railway Company of its entire line of railroad in interstate and foreign commerce, all as previously described;

It is ordered, That this certificate and order shall take effect and be in force from and after 35 days from the date of service hereof; that concurrences and powers of attorney applicable to interstate and foreign commerce may be cancelled upon 10 days' notice by filing and posting in the manner prescribed by section 6 of the Interstate Commerce Act;

It is further ordered, That, when filing schedules cancelling tariffs applicable to the lines, applicants shall in such schedules refer to this certificate and order by date and docket number;

It is further ordered, That, if the authority granted herein is exercised, the applicants shall submit for the consideration of this Commission two copies of the journal entries showing the retirement of the lines of railroad from service, and shall confirm, in writing, to this Commission immediately after the abandonments, the dates on which said abandonments have actually taken place; and

It is further ordered, That, if the authority granted in this certificate and order is not exercised within one year from its date, it shall be of no further force or effect.

By the Commission, Finance Board No. 3.

BERTHA F. ARMES,  
Acting Secretary.

(SEAL)

INSTRUMENT OF ASSUMPTION BY THE TEXAS  
AND PACIFIC RAILWAY COMPANY WITH RESPECT  
TO FIRST MORTGAGE BONDS OF THE KANSAS,  
OKLAHOMA & GULF RAILWAY COMPANY

INSTRUMENT OF ASSUMPTION dated as of the 1st day of April, 1969, made by THE TEXAS AND PACIFIC RAILWAY COMPANY, a corporation incorporated under an act of the Congress of the United States (sometimes hereinafter called T&P)

WITNESSETH:

WHEREAS, the Kansas, Oklahoma & Gulf Railway Company (sometimes hereinafter called KO&G) heretofore executed, acknowledged and delivered to the Girard Trust Bank, a Pennsylvania corporation, a Deed of Trust (hereinafter called Deed of Trust) dated April 1, 1926 and duly recorded in the Office of the Secretary of State of Oklahoma, Oklahoma City, on the 2nd day of June, 1926, in Public Service Record No. 17 at page 309, etc. which Deed of Trust secured said Railway Company's First Mortgage Gold Bonds, the original issue whereof being its 6% Series 1976 maturing January 1, 1976, all of which series of bonds have been retired, and

WHEREAS, by its First Supplemental Indenture to said Deed of Trust dated July 1, 1928, said KO&G provided for the issuance of its First Mortgage Gold Bonds, 5% Series 1978, maturing July 1, 1978, all of which 5% Series 1978 Bonds have been retired, and

WHEREAS, under date of May 1, 1945 said KO&G executed and delivered to said Girard Trust Bank its Second Supplemental Indenture to its said Deed of Trust providing for the issuance of its First Mortgage Bonds, 3-5/8%, Series 1980, and originally issued under said Second Supplemental Indenture \$4,400,000 principal amount of said bonds, which bonds were at that time the only bonds outstanding under said Deed of Trust of April 1, 1926, and

WHEREAS, to the date hereof there have been cancelled \$1,699,000 of said First Mortgage Bonds leaving outstanding at the present time \$2,472,000 principal amount thereof, \$229,000 of which are held in the Treasury of said Railway, and

WHEREAS, Article IV, Section 6 of said Deed of Trust of April 1, 1926, as supplemented, provides as follows:

"The Company, without violating its covenant to preserve its corporate franchise, may join in any merger or similar reorganization with or in the sale of all

of its properties and franchises to another corporation, provided that (1) the lien hereof on the mortgaged property shall continue unimpaired, (2) the resultant or grantee corporation shall expressly assume and become immediately liable for all of the Bonds and coupons and for all obligations of the Company hereunder, and (3) the proposed merger, reorganization, or sale be such as in the opinion of the Trustee may reasonably be expected not to operate to the detriment of the Bondholders.

The Trustee on receiving an opinion of counsel as to (1) and (2) above and a certificate by an engineer, accountant or other competent person or persons as to (3), will be conclusively justified in taking all steps and executing all papers to effectuate such merger, reorganization, or sale; it may, however, make such investigation as it may reasonably consider necessary, and it may refuse its consent unless reasonably satisfied that said conditions are fulfilled."

WHEREAS, The Texas and Pacific Railway Company, a corporation incorporated by an act of the Congress of the United States, is the owner of all of the capital stock of the Kansas, Oklahoma & Gulf Railway Company and desires that the properties and assets of said KO&G be incorporated into and merged with the properties of said T&P, and

WHEREAS, by an Agreement of Liquidation and Dissolution between said T&P and KO&G dated September 3, 1969, it has been provided that, subject to the prior approval of the Interstate Commerce Commission, the KO&G will be dissolved and will convey and distribute in liquidation to T&P all of its franchises (except its franchise to be a corporation), railroads and properties of each and every kind, and that T&P will accept such conveyance, assume all liabilities and the performance of all obligations and contracts of KO&G at the time of dissolution thereof, including but not limited to KO&G's said First Mortgage Bonds, and will cause all shares of KO&G's capital stock owned by T&P to be cancelled, and

WHEREAS, the said Plan of Liquidation and Dissolution has been approved by the Boards of Directors of said The Texas and Pacific Railway Company and said Kansas, Oklahoma & Gulf Railway Company, and

WHEREAS, The Texas and Pacific Railway Company as the sole stockholder of Kansas, Oklahoma & Gulf Railway Company has approved of said dissolution and liquidation, and

WHEREAS, the Interstate Commerce Commission by its Certificate and Order dated January 6, 1970 and a Supplemental Order dated February 3, 1970, both now effective, in F. D. No. 25856 has authorized said liquidation and dissolution of the KO&G, the conveyance of all of its properties to the said T&P and T&P's assumption of all of KO&G's liabilities including specifically all liability for KO&G's said First Mortgage Bonds, and

WHEREAS, it is the desire of said T&P by these presents to evidence, simultaneously with such conveyance and its receipt of all KO&G assets, its assumption of liability for all of said KO&G's said First Mortgage Bonds and its obligations under said Deed of Trust, subject to all of the terms and conditions of said Deed of Trust of April 1, 1926 and said Second Supplemental Indenture dated May 1, 1945,

NOW, THEREFORE, in consideration of the premises and pursuant to the obligation imposed upon it by the Agreement of Liquidation and Dissolution dated September 3, 1969, The Texas and Pacific Railway Company does hereby assume all obligation for the Kansas, Oklahoma & Gulf Railway Company First Mortgage Bonds, 3-5/8%, Series 1980, issued and outstanding pursuant to the terms and conditions of the Kansas, Oklahoma & Gulf Railway Company's Deed of Trust dated April 1, 1926 and its Supplemental Indenture thereto dated May 1, 1945 to the Girard Trust Bank, Trustee, with the same effect as if said The Texas and Pacific Railway Company was named in the said Deed of Trust and Second Supplemental Indenture as the original party thereof.

This instrument is supplemental to the said Deed of Trust and Second Supplemental Indenture, all the terms and provisions of which shall remain in full force and effect.

IN WITNESS WHEREOF, The Texas and Pacific Railway Company has caused this Instrument of Assumption to be duly executed as of the day and year first above written.

THE TEXAS AND PACIFIC RAILWAY COMPANY

By

J. L. Manion.  
VICE President

ATTEST:

C. A. Moore  
Secretary

STATE OF MISSOURI                    )  
  ) SS  
CITY OF ST. LOUIS                    )

On the 30<sup>th</sup> day of March, 1970 before me personally appeared D. L. MANION to me personally known who being by me duly sworn says that he is VICE President of The Texas and Pacific Railway Company, that the seal affixed to the foregoing instrument is the corporate seal of said corporation, that said instrument was signed and sealed on behalf of said corporation by authority of its Board of Directors, and he acknowledged that the execution of the foregoing instrument was the free act and deed of said corporation.

*W. E. Burke*

Notary Public

My Commission expires: May 30, 1972

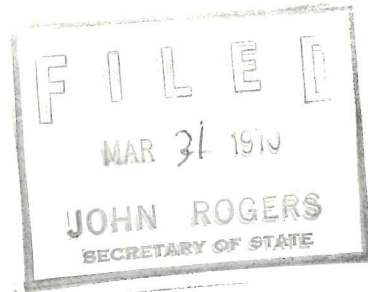
This instrument was filed for Record on  
31st day of March, 1970-----at 10:55 A.M.

RECORDED IN Public Service

RECORD NO. 537      Page 374      Book No.24

SECRETARY OF STATE  
OKLAHOMA CITY, STATE OF OKLAHOMA

By M. L. & Bradfull



19624



AGREEMENT OF LIQUIDATION AND DISSOLUTION BETWEEN  
THE TEXAS AND PACIFIC RAILWAY COMPANY  
AND  
KANSAS, OKLAHOMA & GULF RAILWAY COMPANY

THIS AGREEMENT, entered into, in duplicate, as of the 3rd day of September, 1969, between THE TEXAS AND PACIFIC RAILWAY COMPANY, a corporation incorporated by Act of Congress of the United States (hereinafter called T&P), and the KANSAS, OKLAHOMA & GULF RAILWAY COMPANY, an Oklahoma corporation (hereinafter called KO&G), WITNESSETH:

WHEREAS, T&P and KO&G are both organized for the purpose, among others, of operating lines of railroads, and T&P is the owner of all of the shares of the outstanding Capital Stock of KO&G, namely, 114,356 shares of Common Stock of a par value of \$100.00 each; and

WHEREAS, KO&G has outstanding mortgage debt securing its First Mortgage 3-5/8% Bonds, Series 1980, now issued in the approximate principal amount of \$2,497,000; and

WHEREAS, the parties hereto desire to cause KO&G to be completely dissolved and liquidated and its entire assets merged into and distributed to T&P as the sole shareholder of all shares of Capital Stock of KO&G pursuant to a plan of liquidation within the meaning and intent of Section 332 of the Internal Revenue Code of the United States;

NOW, THEREFORE, it is agreed between the parties hereto as follows:

(1) This Agreement shall constitute a plan of complete liquidation and dissolution of KO&G within the meaning and intent of Section 332 of the Internal Revenue Code of the United States.

(2) Subject to the prior approval of the Interstate Commerce Commission to the extent required by law, and requisite approval of KO&G stockholders, and as soon after the granting of such ICC authority and stockholder approval as is reasonably proper, KO&G will dissolve, convey and distribute in liquidation to T&P all of its franchises (except its franchise to be a corporation), railroads and properties of each and every kind, but in no event shall any distribution be made more than three years after the close of the taxable year during which is made the first distribution hereunder, and T&P will (a) accept such conveyance, (b) assume all liabilities and the performance of all obligations and

contracts of KO&G at the time of dissolution thereof including its First Mortgage Bonds; and (c) cause all shares of the capital stock of KO&G to be cancelled.

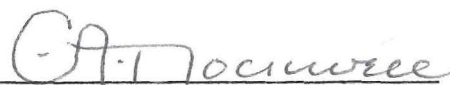
IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be signed as of the day and year first before above written,

THE TEXAS AND PACIFIC RAILWAY COMPANY

BY

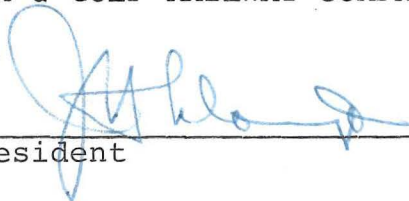
  
President

ATTEST:

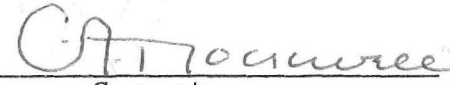
  
Secretary

KANSAS, OKLAHOMA & GULF RAILWAY COMPANY

BY

  
President

ATTEST:

  
Secretary

BILL OF SALE  
OF RAILWAY EQUIPMENT  
FROM  
KANSAS, OKLAHOMA & GULF RAILWAY COMPANY  
TO  
THE TEXAS AND PACIFIC RAILWAY COMPANY

\* \* \* \* \*

KNOW ALL MEN BY THESE PRESENTS:

In consideration of One Dollar (\$1.00), in hand paid, and other good and valuable consideration, receipt of which is hereby acknowledged, KANSAS, OKLAHOMA & GULF RAILWAY COMPANY (hereinafter called "KO&G") hereby grants, bargains, sells, assigns, transfers, quitclaims and sets over unto THE TEXAS AND PACIFIC RAILWAY COMPANY (hereinafter called "T&P"), all of KO&G's right, title and interest in and to those units of railroad equipment (hereinafter called "Equipment") which are enumerated on Appendix A attached hereto.

TO HAVE AND TO HOLD the Equipment unto T&P, its successors and assigns, to its and their own use, benefit and behoof forever.

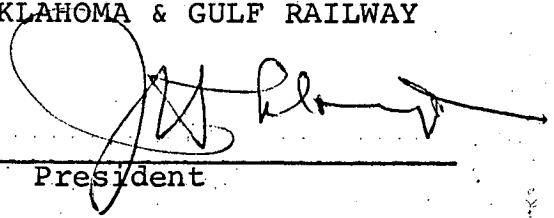
KO&G expressly disclaims and refrains from making any warranty, either express or implied, as to quality, condition, suitability or merchantability of the said Equipment.

KO&G warrants to T&P, its successors and assigns that except for the right, title and interest in the Equipment which remains in various Assignees by virtue of the Conditional Sale Agreements and Assignments shown on said Appendix A, and the right, title and interest of lessors of equipment leased and not owned by KO&G, also shown on said Appendix A, the Equipment is free and clear of all liens and encumbrances of any nature except the liens of taxes payable in and for the year of execution hereof and of the KO&G's First Mortgage 3-5/8% Bonds, Series 1980.

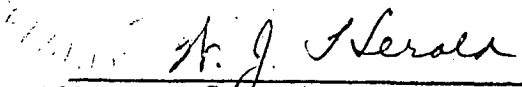
IN WITNESS WHEREOF, KO&G has caused these presents to be executed in its behalf by its President, and its corporate seal to be affixed and duly attested by its Secretary, on this 1st day of April, 1970.

KANSAS, OKLAHOMA & GULF RAILWAY  
COMPANY

By

  
\_\_\_\_\_  
President

ATTEST:

  
\_\_\_\_\_  
ASSISTANT Secretary

KOG EQUIPMENT - OWNED AND LEASEDAS OF APRIL 1, 1970

## A. REVENUE FREIGHT CARS:

Series	Type	Capy.	Date Blt.	No. Owned	No. ACI Labels Applied	No. Leased	Lessor Ch.Frt.Car	Lease Expires
601-674	Gond.	110-M	1961	-	10	71	-	11-7-71
18002-18005(1)	C.Hop	154-M	1926-27-28	3	None	-	-	-
30009 (1)	Box RBL	"	1957	1	1	-	-	-
251600-272044	Box-Eqpt	"	1966	545	475	-	-	-
655000-655049	Gond	200-M	"	50	27	-	-	-
683000-683049	"	"	"	50	31	-	-	-
702147-702166	Grd Hop(2)	154-M	1926-27-28	4	4	-	-	-
709600-709899	" "	200-M	1965	300	245	-	-	-
780162-780163	Box RBL	154-M	1957	3	3	-	-	-
821200-821299	Flat	"	1966	100	53	-	-	-
821980-822225	"	200-M	"	85	46	-	-	-
828063-828077	"	140-M	"	15	5	-	-	-
				<u>1,156</u>	<u>900</u>	<u>71</u>		

905 ACI Labels have been applied 15 of which were on leased cars. 266 KOG owned cars yet to receive application with possibility the 7 - 44 years and over cars will not have application made, leaving 259.

- One car (30009) yet to be re-numbered to six digits.
  - The three owned 18-M series are over 44 yrs. old and will be retired as they become bad order.
- These four cars were renumbered from owned 18-M series and are over 44 yrs. old and will be retired when they become bad order.

## B. Listed below is KOG equipment now covered by Conditional Sales Agreements.

Series	No. of Cars	Agreement With	Dated
251600-251849	247	GATX and Republic Nat. Bank Dallas	2-15-66
251850-252069	219	GATX and Bank of S. West Nat. Assn.	3-15-66
252070-252099	29	" " " " " " " "	3-15-66
271083-271112	30	Thrall Car Mfg. Co. & First Nat. Bank in Dallas	7- 1-66
272025-272044	20	Pullman-Standard & Bank of S. West National Association.	7- 1-66
655000-655049	50	Magor Car Corpn. & Republic Nat. Bank Dallas	2-15-66
683000-683049	50	Magor Car Corpn. & Republic Nat. Bank Dallas	2-15-66
709600-709899	300	ACF and First National Bank in Dallas	4- 1-65
821200	200	Gen'l. Steel Ind. and First National Bank in Dallas	6- 1-66
	<u>1,145</u>	- Total (Included in Item "A")	

C. CABOOSE:

<u>Series</u>	<u>Date Built</u>	<u>No. Owned</u>	<u>No. ACI Labels Applied</u>
1535	1948	1	1
1545-1552	1953	3	1
13224-13245	1947-48-49-52	17	15
		<u>21</u> - Total	<u>17</u> - Total

D. WORK EQUIPMENT

<u>Initials &amp; Number</u>	<u>Type</u>	<u>No. Owned</u>	<u>Date Blt.</u>	<u>ACI Labels</u>
MWU - 10	Flat	1	?	No
" - 11	Gond	1	?	No
" - 85021	Flat	1	?	No
		<u>3</u> - Total		

E. LOCOMOTIVES

<u>SERIES</u>	<u>NO. OF UNITS</u>	<u>DATE BUILT</u>	<u>MODEL</u>	<u>HP/UNIT</u>	<u>TOTAL HP</u>
1027	1	1949	NW2	1000	1000
970105	9	1952-53	GP7	1500	13500
570-571	2	1964	GP28	2000	4000
844-847	3	1949	F7	1500	4500
	<u>15</u>				<u>23,000</u>

AVP-Engrg.  
St. Louis  
 Apr. 1, 1970



OFFICE OF THE SECRETARY OF STATE



CERTIFICATE OF DISSOLUTION

*To all to whom these Presents Shall Come, Greetings:*

**WHEREAS,** *Articles of Dissolution duly signed and verified of*

KANSAS, OKLAHOMA & GULF RAILWAY COMPANY

*have been filed in the Office of the Secretary of State on the 31st day of MARCH A. D. 1970, as provided by "The Business Corporation Act" of Oklahoma, as amended.*

**NOW THEREFORE,** *I, the undersigned, Secretary of State of the State of Oklahoma, by virtue of the powers vested in me by law, do hereby issue this Certificate of Dissolution and attach thereto a copy of the Articles of Dissolution of the aforesaid corporation.*

**IN TESTIMONY WHEREOF,** *I hereto set my hand and cause to be affixed the Great Seal of State.*

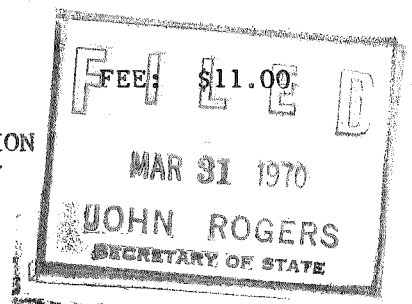


*Done at the City of Oklahoma City, this 31st day of MARCH, A. D. 1970*

*John Rogers*  
Secretary of State

By: *Leanne W. Noriega*  
Assistant Secretary of State



ARTICLES OF DISSOLUTION OF DOMESTIC CORPORATION  
BY UNANIMOUS CONSENT OF SHAREHOLDERS, OR BY  
RESOLUTION OF THE BOARD OF DIRECTORSTO *John Rogers* SECRETARY OF STATE

The undersigned corporation, for the purpose of dissolving said corporation pursuant to the unanimous consent of the shareholders under Section 181 of the "Business Corporation Act" of the State of Oklahoma, or by resolution of the Board of Directors under Section 182 of said Act, hereby executes the following Articles of Dissolution.

1. The name of the corporation is:

Kansas, Oklahoma & Gulf Railway Company

2. The address of its registered office is:

1501 Fourth National Bank Building, Tulsa, Oklahoma 74103

NUMBER

STREET

CITY-STATE

and the name and address of its registered agent is:

William Powers 1501 Fourth National Bank Building, Tulsa, Oklahoma 74103

NAME

NUMBER-STREET

CITY-STATE

3. The date of issuance of its Certificate of Incorporation was the 31st day of

July, 19 19 and its period of existence specified in its Articles of

Incorporation is \_\_\_\_\_ years.

4. The names and addresses of its principal officers, including its directors are:

NAME

NUMBER-STREET

CITY-STATE

Pres. see attached Ex "A"

Secy \_\_\_\_\_

Treas. \_\_\_\_\_

Dir. \_\_\_\_\_

Dir. \_\_\_\_\_

Dir. \_\_\_\_\_

Dir. \_\_\_\_\_

5. All debts, liabilities, and obligations of the corporation have been paid and discharged, or adequate provisions have been made therefor, and all of its remaining property and assets have been distributed to its shareholders.

(If the dissolution is by directors' resolution under § 182, give the information required by 6 to 9)

6. On this 3rd day of September, 19 69 the board of directors passed a resolution authorizing the submission of the matter of dissolution to a vote of the shareholders, with a recommendation that the shareholders adopt a resolution authorizing a voluntary winding up and dissolution of the corporation.

7. The shareholders on this 16th day of March, 19 70 at a duly called meeting adopted a resolution authorizing a voluntary winding up and dissolution of the corporation.

8. A copy of the resolution of the shareholders authorizing the voluntary dissolution of the corporation is hereto attached. as Ex "B".

9. The number of shares outstanding, and if the shares of any class be entitled to vote as a class, the number of shares of each such class were:

CLASS

SERIES

NO. OF SHARES

Common

114,356

10. The number of shares voted for and against the voluntary dissolution, respectively, and if the shares of any class were entitled to vote as a class, the number of shares of each such class voted for and against the voluntary dissolution of the corporation, respectively were:

CLASS	SHARES VOTED FOR	SHARES VOTED AGAINST	TOTAL SHARES VOTED FOR	TOTAL SHARES VOTED AGAINST
Common	114,356	0	114,356	0

(If the dissolution is by unanimous consent by the shareholders under X 181, give the information called for by 11 and 12)

11. A copy of the agreement signed by all registered holders of shares of the corporation consenting to its dissolution is hereto attached.

12. Such agreement is signed by all registered holders of shares of the corporation, or signed in their names by their attorneys therefore duly authorized.

(CORPORATE SEAL) Kansas, Oklahoma & Gulf Railway Company  
Name of Corporation  
By: D. L. Manion  
Its VICE President

ATTEST:  
G. J. Moore  
Secretary or Assistant Secretary

STATE OF MISSOURI )  
CITY OF ST. LOUIS ) ss

Before me, a Notary Public in and for said County and State, on this 31st day of March, 1970, personally appeared D. L. MANION to me known to be the identical person who subscribed the name of the maker thereof to the foregoing Articles of Dissolution as its VICE President, and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of such corporation, for the uses and purposes therein set forth.

(NOTARIAL SEAL) [Signature]  
Notary Public  
My Commission expires May 30, 1972

John Rogers  
Secretary of State  
State Capitol  
Oklahoma City, Okla. 73105

EX "A"

KANSAS, OKLAHOMA & GULF RAILWAY COMPANY

DIRECTORS

J. A. Austin	210 No. 13th Street	St. Louis, Mo.
R. H. Craft	20 Exchange Place	New York, N. Y.
Herbert Gussman	1714 First National Bldg.	Tulsa, Oklahoma
M. M. Hennelly	210 No. 13th Street	St. Louis, Mo.
D. B. Jenks	210 No. 13th Street	St. Louis, Mo.
J. H. Lloyd	210 No. 13th Street	St. Louis, Mo.
W. G. Marbury	9900 Clayton Road	St. Louis, Mo.
D. L. Manion	210 No. 13th Street	St. Louis, Mo.
J. T. Suggs	1507 Pacific Avenue	Dallas, Texas

OFFICERS

D. B. Jenks, Chairman of the Board, 210 No. 13th Street, St. Louis, Mo.  
R. H. Craft, Chairman of Finance Committee, 20 Exchange Place, New York, N. Y.  
J. H. Lloyd, President, 210 No. 13th Street, St. Louis, Mo.  
D. L. Manion, Vice President-Operation, 210 No. 13th Street, St. Louis, Mo.  
J. A. Austin, Vice President-Traffic, 210 No. 13th Street, St. Louis, Mo.  
M. M. Hennelly, Vice President & General Counsel, 210 No. 13th St., St. Louis, Mo.  
H. M. Hoffmeister, Vice President-Purchases & Materials, 210 No. 13th St.,  
St. Louis, Mo.  
J. E. Angst, Vice President, 210 No. 13th Street, St. Louis, Mo.  
J. C. Selover, Vice President, 1507 Pacific Avenue, Dallas, Texas  
T. D. Rodman, Controller, 210 No. 13th St., St. Louis, Mo.  
C. A. Rockwell, Secretary, 210 No. 13th St., St. Louis, Mo.  
L. A. Bruns, Treasurer, 210 No. 13th St., St. Louis, Mo.

EX "B"

STOCKHOLDERS  
KANSAS, OKLAHOMA & GULF RAILWAY COMPANY  
RESOLUTION APPROVING LIQUIDATION AND DISSOLUTION

WHEREAS the Board of Directors of this Company by resolution duly adopted at a meeting held at the City of St. Louis, State of Missouri, on the 3rd day of September, 1969 recommended to the Stockholders of this Company that they authorize, approve and direct the conveyance by this Company to the Texas and Pacific Railway Company of all of its franchises (except its franchise to be a corporation), railroads and properties, and the execution and delivery of a contract directed to that end, and to provide for the complete liquidation of this Company and the distribution of its assets to the Texas and Pacific Railway Company, to the end that this Company may be dissolved.

NOW THEREFORE BE IT

RESOLVED that the Stockholders of this Company do hereby authorize, approve and direct the dissolution of this Company and do direct the conveyance by this Company to the Texas and Pacific Railway Company of all of the franchises (except its franchise to be a corporation), railroads and properties of this Company, in consideration of the cancellation of the certificates of all of the outstanding Capital Stock of this Company and the assumption by said Texas and Pacific Railway Company of all of this Company's liabilities and obligations including but not limited to this Company's First Mortgage 3 5/8% Bonds, Series 1980; and

FURTHER RESOLVED that the Stockholders of this Company do hereby ratify, approve, authorize and direct the execution by this Company and delivery to the Texas and Pacific Railway Company of a contract entitled "Agreement of Liquidation and Dissolution" by and between the said railway company and this Company in substantially the form thereof submitted to this meeting, with such changes or modifications as may be approved by the officers of this Company, whose execution thereof shall be deemed conclusive evidence of such approval, and that the President or any Vice-President of this Company, and each of them be, and hereby is, authorized to execute in the name and under the seal of this Company and to deliver said contract duly attested by this Company's Secretary or any Assistant Secretary; and

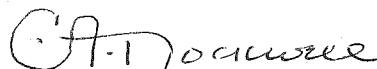
FURTHER RESOLVED that the Stockholders of this Company do hereby authorize and direct this Company to execute and deliver to the Texas and Pacific Railway Company a conveyance or conveyances, pursuant to the contract in these resolutions hereinbefore authorized, of all of this Company's franchises (except its franchise to be a corporation), railroads and properties in the name and under the seal of this Company, and that said above designated officers be further authorized to take all such other proceedings as may be necessary or appropriate to bring about the complete dissolution and liquidation of this Company.

STATE OF MISSOURI )

CITY OF ST. LOUIS )

I, C. A. Rockwell, Secretary of Kansas, Oklahoma & Gulf Railway Company, hereby certify that the foregoing is a true, correct and complete copy of Resolutions unanimously adopted at a Special Meeting of Stockholders of said Kansas, Oklahoma & Gulf Railway Company held at St. Louis, Missouri, on Monday, March 16, 1970, by the vote of 114,356 shares in favor thereof, being the entire number of shares issued and outstanding.

IN WITNESS WHEREOF, I have hereto subscribed my name and affixed the seal of the Company this 16th day of March, 1970.



Secretary  
Kansas, Oklahoma & Gulf Railway Company

BILL OF SALE, CONVEYANCE, ACT OF SALE,  
TRANSFER AND ASSIGNMENT, ETC.

THIS INDENTURE, made and entered into on this the 1st day of April, 1970, by and between Kansas, Oklahoma & Gulf Railway Company, an Oklahoma corporation, (sometimes hereinafter referred to as "KO&G) and The Texas and Pacific Railway Company, a corporation incorporated under an act of the Congress of the United States, (sometimes hereinafter referred to as "T&P");

WHEREAS, on the 3rd day of September, 1969, T&P and KO&G, pursuant to due authority, entered into an Agreement of Liquidation and Dissolution wherein it was provided that, subject to the prior approval of the Interstate Commerce Commission, KO&G would convey to T&P all of its franchises (except its franchise to be a corporation), railroads and properties of each and every kind, nature and character, and wheresoever located, and that T&P would accept such conveyance, assume all liabilities and the performance of all obligations and contracts of KO&G unfulfilled at the time of dissolution thereof and cause all shares of the corporate capital stock of KO&G to be cancelled, and

WHEREAS the dissolution and liquidation of KO&G and the conveyance of all of its properties to T&P was approved by the respective Boards of Directors of T&P and KO&G on September 3, 1969, and by the stockholders of KO&G on 16th day of March, 1970, certified copies of each of which resolutions are hereto attached, respectively, as Exhibits "A", "B" and "C", and

WHEREAS, pursuant to application duly filed under Section 5 (2) of the Interstate Commerce Act by T&P, the Interstate Commerce Commission did by Certificate and Order in Finance Docket No. 25856, dated January 6, 1970 and Supplemental Order dated February 3, 1970, both effective February 19, 1970, approve the merger of the properties and franchises of KO&G into T&P for ownership, management and operation, subject to the terms and conditions of said Agreement of Liquidation and Dissolution between the companies dated the 3rd day of September, 1969, and

WHEREAS, it is the desire of the parties hereto to carry out and consummate the aforesaid Agreement of Liquidation and Dissolution and to evidence fully the transfer of all of the assets of KO&G, now in dissolution, to its said sole stockholder, T&P, in consideration of the assumption of all of the liabilities and obligations of KO&G by T&P,

NOW, THEREFORE, for the aforesaid purpose of dissolution and winding up of KO&G, said KANSAS, OKLAHOMA & GULF RAILWAY COMPANY does by these presents, grant, bargain, sell, convey, transfer, assign, remise, release and deliver unto THE TEXAS AND PACIFIC RAILWAY COMPANY, a corporation, its successors and assigns forever, all of the rights-of-way, businesses, franchises and assets of KO&G, of every kind, nature and description, tangible and intangible, all of such being, without limiting the generality of the foregoing, more particularly described as follows:

(1) All properties of every kind and character, real, personal and mixed, now, heretofore, and at this time belonging to KO&G, and all right, title and interest, estate and appurtenances of KO&G of every kind and description whatsoever in or in any way related to real property or real estate or interest in real estate of every kind, nature and wheresoever situated, and any and all mineral rights, royalty rights, leases, contracts, leaseholds, leasehold improvements, easements, servitudes and rights-of-way in connection with any real property or real estate, including particularly, but not limited to, its rights-of-way for railroad and other purposes from Okay, Oklahoma to Durant, Oklahoma approximately 176.73 miles, and from Bromide Junction, Oklahoma to Bromide, Oklahoma, approximately 4.44 miles, all located in the counties of Wagoner, Muskogee, McIntosh, Okmulgee, Okfuskee, Hughes, Pontotoc, Coak, Johnston, Atoka, and Bryan, Oklahoma; and also approximately 28.12 miles of operated track and trackage of other railroads in the states of Oklahoma and Texas, and approximately 25.26 miles of owned siding and spur tracks;

(2) All of the rights granted to and held by KO&G pursuant to its Charter of Incorporation and authority to do business in the State of Oklahoma, including all franchise rights of every kind, nature and character (except the franchise rights of KO&G to be a corporation);

(3) All rights, titles and interests, legal, equitable and of every description of KO&G in and to all buildings, improvements, structures, fixtures and appurtenances now erected upon or attached to any of the premises hereby conveyed



or intended to be conveyed, together with all railroad rolling stock, locomotives, work and other equipment, machinery, tools, implements and appliances belonging thereto or situate thereon, rails and fastenings, all cradles, including the points and splice rails thereon, guides, guide piles and other structures and appurtenances thereto, whether or not the same be affixed to the freehold or land;

(4) All rights, titles and interests, legal equitable and otherwise, of KO&G in and to all materials and supplies, inventories, finished and unfinished products, equipment, furniture and machinery, and all tangible personal property, goods, wares, merchandise and chattels, wheresoever situated;

(5) All rights, titles and interests, legal, equitable and otherwise of KO&G in, to and under all leases, contracts and contract rights, including leases or contracts between it and any other party or parties and leases or contracts which have been acquired by KO&G through assignment or by any other manner;

(6) All rights, titles and interests, legal, equitable and otherwise of KO&G in and to all claims, demands, judgments, rights, equities, accounts, bills and notes receivable, credits, bank accounts, cash on hand or in transit or on deposit, bonds, stocks and other securities, investments, bills, discounts and deferred items, books of account, insurance policies and credits, records, vouchers, leases, leaseholds, mortgages, assignments, options and licenses of every nature, kind and description, and all documents and muniments of title relating to or in anywise connected with the properties, assets or business of KO&G;

(7) All rights, titles and interest of KO&G in all choses in action, including all claims and demands and all causes of action or pending suits and judgments, together with full power, including power of substitution and revocation, in the name of KO&G or in the name of the railway but for the sole use of the railway to ask, demand, sue for, prosecute suits for, collect, receive, compound or give acquittances for any of the same;

(8) All other properties and assets, tangible and intangible, of every kind, nature and description whatsoever, owned by KO&G and wheresoever located, any enumeration of the rights, titles and interests hereinabove set forth being in nowise a limitation of the intent and purpose

to cover and include every property and asset of each kind and character of KO&G whatsoever and wheresoever located.

TO HAVE AND TO HOLD all of that hereinabove described and referred to unto said The Texas and Pacific Railway Company, its successors and assigns forever.

AND, KO&G hereby constitutes and appoints T&P, its successors and assigns, the true and lawful attorney or attorneys of and for KO&G, with full power of substitution in the premises, for KO&G and in its name and stead or otherwise, by and on behalf of and for the benefit of T&P, its successors and assigns, to demand and receive from time to time any and all of the properties hereby assigned, transferred, conveyed, granted, bargained, sold, set over, abandoned, released, remised and delivered, and to give receipts or releases for and in respect to and of the same and any part thereof, and from time to time to institute and prosecute in the name of KO&G or otherwise, but at the expense and for the benefit of T&P, its successors and assigns, any and all proceedings at law, in equity or otherwise, which T&P, its successors and assigns, may deem proper in order to collect, assert or enforce any claim, right or title of any kind in or to the properties hereinabove described, and to defend or compromise any and all actions, suits or proceedings in respect to any of said properties and to do all such acts and things in relation thereto as T&P, its successors and assigns, shall deem desirable; KO&G hereby declaring that the appointment made and the powers hereby granted are coupled with an interest and are and shall be irrevocable by KO&G in any and every manner or for any reason.

AND, for the consideration aforesaid, KO&G has covenanted and by this instrument does covenant with T&P, its successors and assigns, that it, KO&G, and its successors and assigns, will do, execute and deliver, or will cause to be done, executed and delivered, any and all further instruments and documents, including but not limited to, powers of attorney and assurances, for the better assuring, conveying and confirming unto T&P, its successors and assigns, all and singular, the properties hereinabove intended and hereby so granted, sold, transferred, assigned, delivered, bargained, granted, released, remised, and conveyed as T&P, its successors and assigns, shall reasonably require, and to do so from time to time.

By its execution of this document, T&P acknowledges its acceptance and receipt of the foregoing conveyance, and as the sole stockholder of KO&G, on the signing hereof, does surrender all of the shares of corporate stock of KO&G, and does further agree to assume, and does hereby assume, each and every liability of KO&G and any and all obligations of KO&G of every kind, including any such liability under any and all contracts, agreements, grants, franchises, licenses, or other arrangements of any kind whatsoever imposing duties and obligations on KO&G including specifically but not limited to KO&G's First Mortgage 3 5/8% Bonds, Series 1980, and any and all liabilities under or by reason of any equipment financing upon the railroad rolling stock hereby conveyed to it.

IN WITNESS WHEREOF, the corporate parties have caused these presents to be executed by their respective duly authorized

agents or officers and have caused their respective corporate seals, duly attested by their respective secretaries, to be affixed, all on the day and year hereinabove first set forth.

KANSAS, OKLAHOMA & GULF RAILWAY COMPANY

By Maure M. Kennedy  
VICE President

WITNESSES:

A. B. Stelinger  
N. A. Price

ATTEST:

C. A. Noanwee  
Secretary

THE TEXAS AND PACIFIC RAILWAY COMPANY

By D. L. Marion  
VICE President

WITNESSES:

A. B. Stelinger  
D. S. Schmitt

ATTEST:

C. A. Noanwee  
Secretary

STATE OF MISSOURI

CITY OF ST. LOUIS

Before me, the undersigned authority in and for the jurisdiction aforesaid, personally came and appeared MARK M. HENNELLY, known to me to be the VICE President of Kansas, Oklahoma & Gulf Railway Company, a corporation, who acknowledged that he signed, executed and delivered the foregoing instrument of writing on the day and year therein mentioned and set forth as and for the voluntary act and deed of said Kansas, Oklahoma & Gulf Railway Company, a corporation, he being duly authorized in the premises.

Given under my hand and seal of office at St. Louis, Missouri on this the 1st day of April, 1970.

W. E. Burke  
Notary Public

My commission expires: May 30, 1972

STATE OF MISSOURI

CITY OF ST. LOUIS

Before me, the undersigned authority in and for the jurisdiction aforesaid, personally came and appeared D. L. MANION, known to me to be the VICE President of The Texas and Pacific Railway Company, a corporation, who acknowledged that he signed, executed and delivered the foregoing instrument of writing on the day and year therein mentioned and set forth as and for the voluntary act and deed of said The Texas and Pacific Railway Company, a corporation, he being duly authorized in the premises.

Giver under my hand and seal of office at St. Louis, Missouri on this the 1st day of April, 1970.

W. E. Burke  
Notary Public

My commission expires: May 30, 1972



This instrument was filed for Record on  
31st day of March, 1970-----at 10:45 A.M.

RECORDED IN Public Service

RECORD NO. 536      Page 374-----Book 24

SECRETARY OF STATE  
OKLAHOMA CITY, STATE OF OKLAHOMA

By MR. J. B. Bindfield



19654

APR 20 1970 - 5 15 PM

ASSUMPTION AGREEMENT  
AS TO  
KANSAS, OKLAHOMA & GULF RAILWAY COMPANY  
CONDITIONAL SALE AGREEMENT DATED JUNE 1, 1966  
(ICC RECORDATION NO. 3869)

THIS AGREEMENT, made and entered into as of April 1, 1970 between and among FIRST NATIONAL BANK IN DALLAS, a corporation duly organized and existing under the laws of the United States (hereinafter sometimes called "Assignee"), party of the first part; KANSAS, OKLAHOMA & GULF RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Oklahoma (hereinafter called "KO&G"), party of the second part; and THE TEXAS AND PACIFIC RAILWAY COMPANY, a corporation organized and existing under and by virtue of the laws of the United States (hereinafter called "T&P"), party of the third part:

W I T N E S S E T H:

WHEREAS, KO&G, pursuant to the provisions of an Agreement of Liquidation and Dissolution between it and T&P dated September 3, 1969, is to be dissolved and all of its assets conveyed to and merged into T&P, which transaction has been approved by the Interstate Commerce Commission in a Certificate and Order, in Finance Docket No. 25856, dated January 6, 1970 and a Supplemental Order dated February 3, 1970, both now effective; and

WHEREAS, T&P has agreed that among all other assets KO&G will convey to the T&P all of its locomotive units and freight train cars (hereinafter referred to as "equipment"); and

WHEREAS, legal title to certain KO&G equipment is vested in Assignee by virtue of an Assignment, dated as of the 1st day of June, 1966, from General Steel Industries, the manufacturer of said equipment, which conditionally sold the same to KO&G pursuant to the provisions of a Conditional Sale Agreement between the manufacturer and KO&G dated as of the 1st day of June, 1966

(said Conditional Sale Agreement and Assignment, which was recorded on the 10th day of June, 1966 with the Interstate Commerce Commission and bears Recordation No. 3869, being hereinafter sometimes referred to as the "Conditional Sale Agreement"); and

WHEREAS, KO&G and T&P have agreed that all right, title and interest of KO&G in and to the equipment specified in aforesaid Conditional Sale Agreement shall be transferred to T&P, subject to all of KO&G's obligations thereunder including, but not limited to, the outstanding indebtedness due thereunder; and

WHEREAS, KO&G now desires to assign all of its right, title and interest in and to the said equipment specified in said Conditional Sale Agreement to T&P, without recourse, and T&P is willing to assume the obligations of KO&G with reference to the equipment specified in said Conditional Sale Agreement, including specifically, but without limitation, the obligation to pay the remaining principal balance and interest due thereon in the amounts and at the rates shown in said Conditional Sale Agreement; and the Assignee is willing to permit such assignment and accept such assumption.

NOW, THEREFORE, in consideration of the premises and of the payment by each, KO&G and T&P, of the sum of One Dollar (\$1.00) to the Assignee, receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. KO&G hereby assigns to T&P all of its rights, title and interest in and to the equipment specified in said Conditional Sale Agreement, which bears ICC Recordation No. 3869 and was recorded June 10, 1966, between General Steel Industries, manufacturer, KO&G, and First National Bank in Dallas, Assignee, dated the 1st day of June, 1966, without recourse against KO&G. KO&G expressly disclaims and refrains from making any warranty to T&P, either express or implied, as to quantity, quality, condition, suitability or merchantability of such equipment.



KANSAS, OKLAHOMA & GULF RAILWAY COMPANY

By Mark M. Hennelly  
VICE President

ATTEST:

C. A. Rockwell  
Secretary

THE TEXAS AND PACIFIC RAILWAY COMPANY

By D. L. Wamion  
VICE President

ATTEST:

C. A. Rockwell  
Secretary

STATE OF TEXAS           )  
                                  ) SS  
COUNTY OF DALLAS       )

I, Peggy McDonald, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Gordon L. Roberts, and James H. Merritt personally known to me to be Asst Vice President and Cashier of FIRST NATIONAL BANK IN DALLAS and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such Asst Vice President and Cashier they assigned said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal this 15 day of April, 1970.

Peggy McDonald  
Notary Public

My Commission expires: PEGGY McDONALD, Notary Public,  
in and for Dallas County, Texas  
My Commission Expires June 1, 1971

STATE OF MISSOURI       )  
                                  ) SS  
CITY OF ST. LOUIS       )

I, W. E. BURKE, a Notary Public in and for said City, in the State aforesaid, DO HEREBY CERTIFY that MARK M. HENNELLY, and C. A. Rockwell personally



known to me to be VICE President and \_\_\_\_\_ Secretary respectively of KANSAS, OKLAHOMA & GULF RAILWAY COMPANY, an Oklahoma corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such VICE President and \_\_\_\_\_ Secretary they signed said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

March GIVEN under my hand and notarial seal this 30<sup>th</sup> day of \_\_\_\_\_, 1970.

W. E. Burke  
Notary Public

My Commission expires: \_\_\_\_\_ May 30, 1972

STATE OF MISSOURI     )  
                                  )   SS  
CITY OF ST. LOUIS     )

I, W. E. BURKE, a Notary Public in and for said City, in the State aforesaid, DO HEREBY CERTIFY that D. L. MANION and C. A. Rockwell, personally known to me to be VICE President and \_\_\_\_\_ Secretary of THE TEXAS AND PACIFIC RAILWAY COMPANY, a federal corporation, and personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that as such VICE President and \_\_\_\_\_ Secretary they signed said instrument and caused the corporate seal of said corporation to be affixed thereto, pursuant to authority given by the Board of Directors of said corporation as their free and voluntary act, and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

March GIVEN under my hand and notarial seal this 30<sup>th</sup> day of \_\_\_\_\_, 1970.

W. E. Burke  
Notary Public

My Commission expires: \_\_\_\_\_ May 30, 1972

## ARTICLES OF MERGER

HONORABLE JAMES C. KIRKPATRICK  
SECRETARY OF STATE  
STATE OF MISSOURI  
JEFFERSON CITY, MISSOURI 65101

Pursuant to an Order of the Interstate Commerce Commission issued on May 10, 1976 (Finance Docket No. 27773), affirmed on August 18, 1976, (the "Order") pursuant to Section 5(2) of the Interstate Commerce Act and pursuant to The General and Business Corporation Law of Missouri, the undersigned Corporations certify the following:

- (1) That Missouri Pacific Railroad Company of Missouri,
  - (2) That The Texas and Pacific Railway Company  
Chartered under Act of Congress on March 3, 1871,  
and
  - (3) That Chicago & Eastern Illinois Railroad Company  
of Indiana,
- are hereby merged and that the above named Missouri Pacific Railroad Company is the surviving corporation.
- (4) That the Board of Directors of Missouri Pacific Railroad Company met on July 29, 1974, and by resolution adopted by majority vote of the members of such board approved the Plan and Joint Agreement of Merger dated as of July 29, 1974 (the Merger Agreement) incorporated in these Articles.
  - (5) That the Board of Directors of The Texas and Pacific Railway Company met on July 29, 1974, and by resolution adopted by a majority vote of the members of such board approved the Merger Agreement incorporated in these Articles.


- (6) That the Board of Directors of Chicago & Eastern Illinois Railroad Company met on July 29, 1974, and by resolution adopted by a majority vote of the members of such board approved the Merger Agreement incorporated in these Articles.
- (7) That the Plan of Merger thereafter was submitted to a vote at the special meeting of the shareholders of Missouri Pacific Railroad Company held on October 22, 1974 at St. Louis, Missouri and at such meeting there were 12,506,990 shares entitled to vote and 11,075,642 voted in favor and 42,466 voted against said Plan.
- (8) That the Plan of Merger thereafter was submitted to a vote at the special meeting of the shareholders of The Texas and Pacific Railway Company held on October 18, 1974, at Dallas, Texas and at such meeting there were 538,799 shares entitled to vote and 532,476 voted in favor and 2,456 voted against said Plan.
- (9) That the Plan of Merger thereafter was submitted to a vote at the special meeting of the shareholders of Chicago & Eastern Illinois Railroad Company held on October 24, 1974 at St. Louis, Missouri and at such meeting there were 3,372,324 shares entitled to vote and 3,099,466 voted in favor and 54,659 voted against said Plan.
- (10) That the Order became effective on September 7, 1976.
- (11) Plan of Merger
  1. Missouri Pacific Railroad Company of Missouri is the survivor.
  2. All of the property, rights, privileges, leases and patents of The Texas and Pacific Railway Company and Chicago & Eastern Illinois Railroad Company are to be transferred to and become the property of Missouri Pacific Railroad Company, the survivor. The officers and boards of

directors of the above named corporations are authorized to execute all deeds, assignments, and documents of every nature which may be needed to effectuate a full and complete transfer of ownership.


3. The officers and directors of Missouri Pacific Railroad Company shall continue in office until their successors are duly elected and qualified under the provisions of the by-laws of the surviving corporation.
4. The outstanding shares of The Texas and Pacific Railway Company shall be exchanged for shares of Missouri Pacific Railroad Company as provided in Article V of the Merger Agreement.
5. The outstanding shares of Chicago & Eastern Illinois Railroad Company shall be exchanged for shares of Missouri Pacific Railroad Company as provided in Article V of the Merger Agreement.
6. The Restated Articles of Incorporation of the survivor are not amended.
7. Attached as Exhibit I to these Articles is a true and correct conformed copy of the Merger Agreement.

IN WITNESS WHEREOF, these Articles of Merger have been executed in duplicate by the aforementioned corporations as of the day and year hereafter acknowledged.

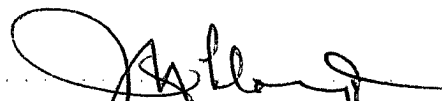
MISSOURI PACIFIC RAILROAD COMPANY

By   
J. H. Lloyd, President

Attest:

  
C. J. Maurer, Secretary

THE TEXAS AND PACIFIC RAILWAY COMPANY

By   
J. H. Lloyd, President

Attest:

  
C. J. Maurer, Secretary

UPRR 000066

CHICAGO & EASTERN ILLINOIS RAILROAD  
COMPANY

By   
J. H. Lloyd, President

Attest:

  
C. J. Maurer, Secretary

STATE OF MISSOURI )  
                              ) SS.  
CITY OF ST. LOUIS )

I, R. C. MASON, a notary public, do hereby certify that on this 7th day of September, 1976, personally appeared before me J. H. Lloyd, who, being by me first duly sworn, declared that he is the President of Missouri Pacific Railroad Company that he signed the foregoing document as President of the corporation and that the statements therein contained are true.

  
Notary Public

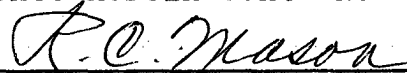
My commission expires

Sept 28, 1978

This act performed in the City of St.  
Louis, which adjoins the County of  
St. Louis in which I was commission-  
ed.

STATE OF MISSOURI )  
                              ) SS.  
CITY OF ST. LOUIS )

I, R. C. MASON, a notary public, do hereby certify that on this 7th day of September, 1976, personally appeared before me J. H. Lloyd, who, being by me first duly sworn, declared that he is the President of The Texas and Pacific Railway Company that he signed the foregoing document as President of the corporation and that the statements herein contained are true.

  
Notary Public

My commission expires

Sept 28 1978

This act performed in the City of St.  
Louis, which adjoins the County of  
St. Louis in which I was commission-  
ed.

UPRR 000067



STATE OF MISSOURI )

) SS.

CITY OF ST. LOUIS )

I,

R. C. MASON

, a notary public, do

hereby certify that on this 7th day of September, 1976, personally appeared before me J. H. Lloyd, who, being by me first duly sworn, declared that he is the President of Chicago & Eastern Illinois Railroad Company that he signed the foregoing document as President of the corporation and that the statements therein contained are true.

P. C. Mason

Notary Public

My commission expires

Sept 28, 1978

This act performed in the City of St. Louis, which adjoins the County of St. Louis in which I was commissioned.

FILED AND CERTIFICATE  
ISSUED

Oct 14 1945

*James C. Thompson*  
Corporation Dept. SECRETARY OF STATE

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**PLAN AND JOINT AGREEMENT**

**OF MERGER**

**of**

**MISSOURI PACIFIC RAILROAD COMPANY**

**(a Missouri corporation)**

**THE TEXAS AND PACIFIC RAILWAY COMPANY**

**(a corporation created and existing under an Act of Congress)**

**and**

**CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY**

**(an Indiana corporation)**

**Dated as of**

**July 29, 1974**

## PLAN AND JOINT AGREEMENT OF MERGER

THIS PLAN AND JOINT AGREEMENT OF MERGER of Missouri Pacific Railroad Company, The Texas and Pacific Railway Company and Chicago & Eastern Illinois Railroad Company (hereinafter sometimes called the "Agreement"), dated as of the 29th day of July, 1974, by and among the MISSOURI PACIFIC RAILROAD COMPANY, a Missouri corporation (hereinafter sometimes called the "MoPac"), and its directors or a majority thereof, THE TEXAS AND PACIFIC RAILWAY COMPANY, a corporation incorporated under an Act of the Congress of the United States (hereinafter sometimes called the "T&P"), and its directors or a majority thereof, and CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY, an Indiana corporation (hereinafter sometimes called the "C&EI"), and its directors or a majority thereof;

### WITNESSETH:

WHEREAS, the Missouri Pacific Railroad Company is a corporation organized and existing under the laws of the State of Missouri, having been incorporated on March 5, 1917, has its principal offices at Missouri Pacific Building, 210 North Thirteenth Street, St. Louis, Missouri, 63103, and has at this time authorized capital stock consisting of 25,000,000 shares of stock, without par value, divided into 10,000,000 shares of Preferred Stock and 15,000,000 shares of Common Stock, without par value, of which there are now outstanding 9,328,510 shares of Preferred Stock and 3,178,480 shares of Common Stock; and

WHEREAS, the Missouri Pacific Railroad Company has 9,328,510 shares of said Common Stock reserved for conversion of the Preferred Stock; and

WHEREAS, The Texas and Pacific Railway Company is a corporation which was created and exists under an Act of Congress of the United States of America, approved March 3, 1871, and entitled "An Act to Incorporate The Texas Pacific Railroad Company and to aid in the construction of its Road, and for other purposes" as amended by Supplemental Acts thereto of May 2, 1872, March 3, 1873, June 22, 1874, February 9, 1923 and July 10, 1962, has its principal offices at 505 North Industrial Boulevard, Dallas, Texas 75207; and has an authorized capital stock of \$100,000,000, of which \$53,879,900 is outstanding represented by 538,799 shares of Common Stock of a par value of \$100 each; and

WHEREAS, the Chicago & Eastern Illinois Railroad Company is a corporation organized and existing under the laws of the State of Indiana, having been incorporated on the 27th day of June, 1940, has its principal offices at 210 North Thirteenth Street, St. Louis, Missouri 63103, and has an authorized capital stock consisting of 3,631,140 shares of no par Common Stock, of which there is now outstanding 3,372,324 shares; and

WHEREAS, the Board of Directors of said three corporations (hereinafter sometimes collectively referred to as the "constituent corporations") deem it advisable that said corporations merge and have duly approved the form of this Plan and Joint Agreement of Merger;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, it is agreed that the T&P and C&EI shall be merged with and into MoPac, and that the terms and conditions of such merger, the mode of carrying the same into effect, and other provisions thereof, shall be as hereinafter set forth.

### ARTICLE I

THE TEXAS AND PACIFIC RAILWAY COMPANY and CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY shall be and hereby are, on the effective date of merger provided for in this Agreement, merged into the MISSOURI PACIFIC RAILROAD COMPANY, a corporation of the State of Missouri, which shall be the surviving company resulting from the merger.

## ARTICLE II

The Articles of Association of MoPac, restated as of January 21, 1974, and effective as of July 5, 1974, are set forth in Exhibit A hereto attached and made a part of this Plan and Joint Agreement of Merger and incorporated herein with the same force and effect as if herein set forth in full. Said Articles of Association shall be the Articles of Association of MoPac, as the surviving company and MoPac, as the surviving company, in addition to the powers conferred upon it by the laws of the State of Missouri, shall have the powers set forth in said Articles of Association and shall be governed by the provisions thereof, provided, however, MoPac prior to the effective date of the merger reserves the right to amend, alter, change, or repeal any provisions contained in said Articles of Association, in the manner now and hereafter set forth therein or as is or may be prescribed by the laws of the State of Missouri, and all the rights, powers, and privileges of the stockholders of the constituent companies are granted and shall be held and enjoyed subject to this reservation; provided, however, that no amendment shall be made to the Articles of Association of MoPac which would materially and adversely affect the rights of the stockholders of any of the constituent corporations under the terms of this Agreement.

## ARTICLE III

The By-laws of MoPac in existence on the effective date of the merger shall remain the By-laws of MoPac, as the surviving corporation, until thereafter duly altered, amended, or repealed in the manner provided by law or by said By-laws; and the directors and officers of MoPac, from and after the effective date of the merger, shall remain the directors and officers of MoPac, as the surviving corporation, for the terms to which they were elected and until their successors shall have been duly elected and qualified.

## ARTICLE IV

On the effective date of the merger all shares of the Common Stock and Preferred Stock of MoPac then issued, including any shares thereof held in the treasury of MoPac, shall continue to be issued shares of the capital stock of MoPac; and the stock certificates then representing shares of the Common Stock and Preferred Stock of MoPac shall continue to represent the same number of shares of said Common Stock and Preferred Stock of MoPac, unaffected by the merger.

On the effective date of the merger each issued and outstanding share of the capital stock of the T&P and C&EI, excluding shares thereof owned by any of the constituent corporations, shall be converted into, and exchanged for, shares of the Common Stock of MoPac, in the ratios and manner provided in Article V of this Agreement. On the effective date shares of the capital stock of T&P and C&EI owned by any of the constituent corporations shall be cancelled.

## ARTICLE V

A. The manner and basis of converting and exchanging shares of stock of the T&P and C&EI into shares of stock of the MoPac shall be as follows:

(1) Each share of Common Stock of The Texas and Pacific Railway Company which shall be outstanding on the effective date of merger as of said date shall be converted into and exchanged for Nine and Five Tenths (9.5) share(s) of Common Stock of the Missouri Pacific Railroad Company;

(2) Each share of Common Stock of the Chicago & Eastern Illinois Railroad Company which shall be outstanding on the effective date of merger as of said date shall be converted into and exchanged for One and One Tenth (1.1) share(s) of Common Stock of the Missouri Pacific Railroad Company;

(3) Provided, however, that no exchange of the Common Stock of the Missouri Pacific Railroad Company shall be made for the capital stock of The Texas and Pacific Railway Company or the Chicago & Eastern Illinois Railroad Company, owned by any of the constituent corporations on the

effective date of merger, but, rather, the capital stock of said two companies owned by the constituent corporations shall, on the effective date of the merger, be cancelled.

B. From and after the effective date of the merger certificates theretofore evidencing outstanding shares of the Common Stock of the T&P and C&EI shall no longer evidence shares of the Common Stock of said companies but shall evidence the right to receive in exchange therefor, certificates for the Common Stock of MoPac into which the outstanding shares of the capital stock of the T&P and C&EI are converted by the merger, in accordance with the exchange ratios set out above, subject, however, to the settlement of fractional share interests in the Common Stock of MoPac resulting from such conversion in the manner hereinafter provided.

C. Promptly following the effective date of the merger, MoPac shall, by letter addressed to each holder of record of T&P's and C&EI's capital stock immediately preceding such effective date, at his address as shown on the stock records of T&P and C&EI, give notice of the consummation of the merger, and shall advise each such holder of the names and addresses of any exchange agent or agents, and of the procedures by which, and the manner in which, certificates theretofore representing shares of T&P's and C&EI's capital stock shall be exchanged for certificates for the whole number of shares of the Common Stock of MoPac into which such shares were converted on the effective date of the merger, and of the procedures for the settlement of any fractional share interests resulting from such conversion.

D. Upon and after the effective date of merger, each holder of a certificate or certificates of capital stock of the T&P and the C&EI, upon surrender of such certificate or certificates for cancellation to MoPac or its agent, shall be entitled to receive a certificate or certificates in definitive or temporary form, for the number of full shares of the capital stock of MoPac to which such stockholder shall be entitled, pursuant to the foregoing provisions, and shall have the right to receive settlement of any fractional share interest in the Common Stock of MoPac to which such shareholder is then entitled, pursuant to the foregoing provisions hereof, in the manner hereinafter provided. If certificates are originally issued in temporary form, such certificates shall be exchangeable for definitive certificates for full shares without cost to the stockholders as soon as they shall have been prepared.

E. Certificates representing fractional shares of the Common Stock of MoPac will not be issued. An agent or agents appointed by MoPac will hold for the account of the former holders of shares of capital stock of T&P and C&EI who would otherwise be entitled to receive fractional interests in shares of MoPac's Common Stock a certificate or certificates representing the aggregate number of shares of such stock of MoPac called for by all such fractional interests, and will mail to each such holder a non-transferable order form by which such holder will be afforded the opportunity for a period of approximately 30 days after the effective date of the merger to instruct such agent or agents (acting for such shareholder) either to sell such fractional interest or to purchase an additional fractional interest sufficient to entitle such shareholder to one full share of Common Stock of MoPac. No such holder will be entitled to voting, dividend or any other rights as a stockholder with respect to such fractional interest, except that dividends received by such agent or agents with respect to such fractional interest shall be paid to such holder without interest upon surrender of his certificates representing capital stock of T&P or C&EI. At the expiration of such period, such agent or agents will sell the number of full shares representing the aggregate remaining fractional interests for the respective account of such holders as shall not have theretofore given instructions to the agent or agents, and the proceeds of such sale together with any dividends then held by the agent shall be paid pro rata and without interest to such holders upon subsequent surrender of their certificates representing capital stock of the T&P or C&EI. The Board of Directors of MoPac and the Executive Committee thereof is empowered to adopt such further rules and regulations concerning the liquidation of fractional interests as such Board or Committee may deem appropriate.

F. If any certificate or certificates of the capital stock of MoPac are to be issued in a name other than that appearing upon the certificate or certificates of stock of the T&P or the C&EI surrendered for exchange as hereinabove provided, it shall be a condition of such issuance that the certificate or certificates so surrendered shall be properly endorsed for transfer and that the person requesting such exchange shall pay to MoPac, or its transfer agent, any transfer or other taxes required by reason thereof, or establish to the satisfaction of MoPac, or its transfer agent, that such taxes have been paid or are not payable.



G. From and after the date on which certificates for shares of capital stock of MoPac shall have been made available for exchange in accordance with the foregoing provisions, the holders of certificates theretofore evidencing shares of the capital stock of the T&P and the C&EI shall not be entitled to vote at any meeting of, or on any question submitted to the stockholders of MoPac, and shall not be entitled to receive any dividends, unless and until they shall have exchanged such certificates for temporary or definitive certificates of the Common Stock of MoPac, issuable in exchange therefor, as herein provided. Upon the issuance of certificates for such shares of the Common Stock of MoPac, dividends which would otherwise have been payable on such stock of MoPac from the effective date of the merger shall then become payable but without interest. MoPac, however, shall at all times from and after the effective date of the merger be entitled to treat the outstanding certificates of capital stock of the T&P and the C&EI as evidencing respectively the ownership of the number of full shares of stock of MoPac into which such outstanding capital stock of T&P and C&EI are convertible, notwithstanding the failure of any such stockholders of T&P or C&EI to exchange their certificates for certificates of stock of the MoPac in accordance with the foregoing provisions. After the effective date of merger, there shall be no further issue or transfer of certificates of capital stock of T&P or C&EI, and as such certificates are presented to MoPac, they shall be cancelled and certificates of capital stock of MoPac shall be issued in exchange therefor in accordance with the terms and conditions hereinabove set forth.

## ARTICLE VI

The Agreement shall be contingent upon the approval of the holders of sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the issued and outstanding shares of voting capital stock of each of the constituent corporations at meetings of said stockholders duly held in accordance with law. Upon the requisite approval of the stockholders of MoPac, T&P and C&EI, this Agreement shall be binding and enforceable by any of such corporations, subject only to the approval and authorization of the Interstate Commerce Commission, to which this merger agreement shall be submitted as soon as practicable.

Each of the constituent companies shall cause this Agreement to be duly submitted to its stockholders for their assent, at a regular meeting of such stockholders, the notice of such meeting to include such purpose, or at a special meeting thereof called for such purpose. The merger shall be contingent upon the assent, at each such meeting of stockholders, of sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the votes of the holders of the shares entitled to vote of the capital stock of the corporation unless a greater vote is required under applicable state law, in which case the number so required shall assent.

The constituent corporations hereto, individually or jointly as may be appropriate, (i) shall prepare, execute, file and prosecute applications to the Interstate Commerce Commission, together with any and all necessary amendments and supplements thereto, for all necessary approvals and authorizations of the merger and of the issuance of securities and the assumption of obligations and liabilities as provided in this Agreement, and for such other approvals or authorizations of said Commission, if any, as may be necessary or appropriate, and (ii) shall obtain any approvals or authorizations or other public authorities which may be necessary or appropriate.

This Agreement and the merger herein provided for shall be subject to the receipt of a final order of the Interstate Commerce Commission approving the merger of the T&P and C&EI with and into the MoPac as provided in Section 5 of the Interstate Commerce Act and approving MoPac's issuance of stock and assumption of liabilities with respect to securities of the constituent corporations as provided in Section 20a of the Interstate Commerce Act.

When MoPac, T&P and C&EI shall have each received a legal opinion from its General Counsel, or other Counsel satisfactory to it, to the effect that as of the date of such opinion all necessary final orders of the Interstate Commerce Commission and necessary corporate and other consents, authorizations and approvals of the merger have been obtained and that this Agreement has not been terminated, these corporations will cause such instruments as may be appropriate in order to consummate the merger in accordance with applicable laws to be executed and filed, or recorded, wherever and in such manner as may be required.

The effective date of the merger shall be the date on which all actions shall have been taken to make the merger effective under the laws of both the State of Missouri and the State of Indiana. Such actions shall be taken as promptly as practicable after the MoPac, T&P and C&EI shall have received the opinions of counsel referred to in the preceding paragraph hereof and, if practicable, such actions shall be taken so that the merger shall become effective under the laws of each of said states on the same date.

## ARTICLE VII

A. Anything herein or elsewhere to the contrary notwithstanding, this Agreement may be terminated and abandoned, at any time prior to the effective date of the merger (a) by action of each of the three Boards of Directors of the constituent corporations if the merger shall be deemed by such Boards to be impractical or undesirable for any reason, or (b) by action of the Boards of Directors of any of the constituent corporations:

(i) if the Interstate Commerce Commission shall in its order of approval or authorization respecting the merger and the issuance of securities impose any term or condition which materially and adversely affects the economic benefits of the unification of the railroad properties herein provided for and if a majority of the Board of Directors of either MoPac, T&P or C&EI shall, within thirty days following the date of service of such order, declare such term or condition to be unacceptable; provided, however, that any term or condition imposed by such order which is of a character substantially similar to a standard term or condition heretofore imposed in similar transactions under Section 5(2) of the Interstate Commerce Act with respect to employee protection, traffic, reporting and filing requirements or the further disposition of authorized securities shall not give rise to any right of termination of the Agreement pursuant to this paragraph; or

(ii) if any ruling requested by any of the constituent corporations from the Internal Revenue Service in connection with said merger, or any part thereof, shall not be obtained or shall be unsatisfactory to any of such Boards of Directors.

B. Anything hereon or elsewhere to the contrary notwithstanding, if any final order of the Interstate Commerce Commission shall impose any terms or conditions upon any of the constituent corporations or require any changes, amendments, or modifications in this Agreement, as a prerequisite to the Interstate Commerce Commission's approval or authorization of the merger, the issuance of MoPac stock, or the assumption of liabilities, then if the terms and conditions of such final order are thereafter duly accepted by appropriate resolutions of the Boards of Directors of each of the constituent corporations, such order shall be binding upon each of the constituent corporations as if a part of this Agreement, and this Agreement shall be deemed to have been correspondingly changed, amended, and modified and shall be duly consummated without any further vote or approval of the stockholders of any of the constituent corporations; provided, however, that if such terms or conditions, or changes, amendments or modifications so accepted by the Boards of Directors of each of the constituent corporations would result in either (a) a change in the ratio of conversion of the shares of Common Stock of the T&P and/or C&EI into shares of stock of MoPac, as provided in Article V hereof, or (b) a change in the rights, preferences or privileges of the capital stock, or the holders thereof, of MoPac, or (c) otherwise materially and adversely change the combined financial structure of MoPac and the surviving company hereunder, then such terms or conditions imposed upon the constituent corporations and/or such changes, amendments or modifications in this Agreement shall be promptly submitted to the stockholders of each of the constituent corporations adversely affected thereby at a regular meeting of such stockholders, the notice of such meeting to include such purpose, or at a special meeting thereof called for such purpose, and the merger shall be terminated and abandoned if there shall not be obtained the assent at each such meeting of stockholders of sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) of the votes of the holders of the shares of capital stock entitled to vote (unless a greater vote is required under applicable State law in which case the number so required shall assent), but if such assents shall be so received, then this Agreement shall be correspondingly amended and modified and, subject to any such terms and conditions, shall thereupon be duly consummated.

## ARTICLE VIII

Upon the effective date of the merger, the separate existence of T&P and C&EI shall cease and said corporations shall become a part of MoPac in accordance with the provisions of this Agreement, and MoPac shall possess all the rights, privileges, powers and franchises, of a public as well as of a private nature, and be subject, except as hereinafter provided, to all the restrictions, disabilities and duties of each of the constituent corporations; and all and singular the rights, privileges, powers and franchises of each of said corporations, and all property, real, personal and mixed, including leasehold interests in other railroad companies and trackage rights over the lines of railroad of other companies, and all debts due to any of said constituent corporations on whatever account, for stock subscriptions as well as all other things in action or belonging to each of said corporations, shall be vested in MoPac; and all property, rights, privileges, powers and franchises, and all and every other interest, shall be thereafter as effectually the property of MoPac as they were of the respective constituent corporations; and the title to any real estate or personal property vested in any of the constituent corporations by deed or otherwise, under the laws of the United States or of any state or country, shall not revert or be in any way impaired by reason hereof; and all rights of creditors and all liens upon any property of any of the constituent corporations shall be preserved unimpaired; and all debts, liabilities and duties, except as hereinafter provided, of the respective constituent corporations shall thenceforth attach to MoPac, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by the MoPac, and MoPac, as the surviving corporation, shall thenceforth be responsible and liable for all of the liabilities and obligations of T&P and C&EI immediately prior to the effective date of the Agreement; and all debts, liabilities and duties of T&P, C&EI and MoPac immediately prior to the effective date of the Agreement shall thenceforth attach to MoPac, and may be enforced against it to the same extent as if said debts, liabilities and duties had been incurred or contracted by it; and any claim existing or action or proceeding pending by or against T&P, C&EI or MoPac immediately prior to the effective date of the Agreement may be prosecuted as if the Agreement had not been consummated, or MoPac, as the surviving corporation, may be substituted in its place; and neither the rights of creditors nor any liens upon the property of either T&P, C&EI or MoPac prior to the effective date of the Agreement shall be impaired by the consummation of the Agreement; provided, however, that nothing herein shall extend or enlarge the lien of any mortgage, indenture, deed of trust, agreement or other instrument executed by T&P, C&EI or MoPac prior to the effective date of the merger; and provided further that nothing herein contained shall be deemed to require MoPac to be or become a corporation of any state other than the State of Missouri or to require it to maintain or staff any general offices, machine shops, roundhouses, terminal facilities or public offices, within the meaning of the laws of the State of Texas or any other state at any point on the lines of railroad owned or operated by MoPac, T&P and C&EI immediately prior to the time when the merger becomes effective or thereafter owned or operated by MoPac, or to obligate the MoPac to discharge, perform or otherwise comply with any statutory, contractual or other obligations with reference to such matters, or any judgment or decree with respect thereto, which may rest upon MoPac or the T&P or C&EI, or to which MoPac might otherwise succeed by reason of this merger, or to obligate MoPac to hold annual meetings of its stockholders or Board of Directors in the State of Texas or in any other state, or to require the officers of MoPac to reside in the State of Texas or in any other state.

## ARTICLE IX

If at any time MoPac shall consider or be advised that any acknowledgements or assurances or other similar actions are necessary or desirable, in order to acknowledge or confirm in and to MoPac any right, title and interest of any of the constituent corporations held immediately prior to the effective date of the merger, each such constituent corporation, or the proper officers and directors of each, shall and will execute and deliver all such acknowledgments or assurances, and do all things necessary or proper, to acknowledge or confirm such right, title, or interest in MoPac as shall be necessary to carry out the purposes of this Plan and Joint Agreement of Merger; and each constituent corporation and its proper officers and

directors are fully authorized to take any and all such action in the name of such corporations, and each non-surviving constituent corporation will, prior to the effective date of the merger, appoint and constitute the President and Secretary of the MoPac as agents and attorneys to execute and deliver, on behalf of and in the name of the T&P and the C&EI, and as officers and directors of each any such acknowledgements and assurances.

#### ARTICLE X

Prior to the effective date of merger no constituent corporation without consent of the Board of Directors of the other constituent corporations, shall issue any additional shares of its capital stock, except that MoPac may issue shares of its Common Stock on conversions of its presently outstanding Preferred Stock.

#### ARTICLE XI

This Agreement and Plan of Merger may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, which shall be sufficiently evidenced by any one of such counterparts.

IN WITNESS WHEREOF, a majority of the directors of each of the constituent corporations have hereunto set their hands, and the corporate seals of each of the constituent corporations, duly attested by their respective Secretaries, have been hereunto affixed, as of the day and year first above written.

#### MISSOURI PACIFIC RAILROAD COMPANY

By DOWNING B. JENKS

S. M. DIXON

R. H. CRAFT

HERBERT GUSSMAN

HAROLD E. THAYER

MARK M. HENNELLY

SAM B. COOK

JOHN H. LLOYD

R. A. GOODSON

F. B. WADELTON

J. T. SUGGS

THOMAS H. O'LEARY

Being all or a majority of the fifteen members of the  
Board of Directors of the Missouri Pacific Railroad  
Company.

[Corporate Seal]

ATTEST: C. J. MAURER  
Secretary

THE TEXAS AND PACIFIC RAILWAY COMPANY

By DOWNING B. JENKS

R. H. CRAFT  
HERBERT GUSSMAN  
J. W. BAKER  
W. DEWEY PRESLEY  
F. B. WADELTON  
J. T. SUGGS  
WM. R. McDOWELL  
CHARLES S. SHARP

THOMAS H. O'LEARY  
SAM D. YOUNG  
JOHN H. LLOYD

Being all or a majority of the seventeen members of  
the Board of Directors of The Texas and Pacific  
Railway Company.

**FILED AND CERTIFICATE  
ISSUED**

661 14 1913

*James S. McIntosh*  
Corporation Dept. SECRETARY OF STATE

[Corporate Seal]

ATTEST: C. J. MAURER  
Secretary

CHICAGO & EASTERN ILLINOIS RAILROAD COMPANY

By DOWNING B. JENKS

S. L. DEVAUSNEY  
ANTON HULMAN, JR.  
MARK M. HENNELLY  
JOHN H. LLOYD

R. H. CRAFT  
CARL L. A. BECKERS  
JAMES W. GESSNER  
THOMAS H. O'LEARY  
HUGH S. VIERLING  
  
W. S. KERR

Being all or a majority of the thirteen members of  
the Board of Directors of Chicago & Eastern Illinois  
Railroad Company.

[Corporate Seal]

ATTEST: C. J. MAURER  
Secretary

# MERGER WORKSHEET

Survivor's Name Ms (Pac) (R-740)  
 Minimum Stated Capital \_\_\_\_\_

	Class A Common	Class B Common	Preferred	Other
Authorized	15,000,000		10,000,000 <sup>np</sup>	
Outstanding	3,178,480	3,178,480	9,328,510	
Un-Issued	11,821,520			

Merging Company "A" CEEI (np)  
 Minimum Stated Capital \_\_\_\_\_

	Class A Common	Class B Common	Preferred	Other
Authorized	3,372,324			
Outstanding	3,372,324			

Merging Company "B" TRP (np)  
 Minimum Stated Capital \_\_\_\_\_

	Class A Common	Class B Common	Preferred	Other
Authorized				
Outstanding	(538,799) 532,476			

Merging Company "C" \_\_\_\_\_  
 Minimum Stated Capital \_\_\_\_\_

	Class A Common	Class B Common	Preferred	Other
Authorized				
Outstanding				

Merging Company "D" \_\_\_\_\_  
 Minimum Stated Capital \_\_\_\_\_

	Class A Common	Class B Common	Preferred	Other
Authorized				
Outstanding				



CONVERSION OF SHARES

Unissued shares of Survivor

11,821,520

Issued shares of Merging "A" 17,687

538,779  
521,092 cancelled

Number of Survivor's Shares to  
be issued for each share of "A" X 9.5

17,687

Survivor Shares to be used 168,026.5

Sub-Total Unissued shares of Survivor

*held by*  
11,643,493.51 *to PAC*

Issued shares of Merging "B" 731,413

3,372,324  
2,640,911 cancelled

Number of Survivor's Shares to  
be issued for each share of "B" X 1.1

731,413

Survivor Shares to be used 804,554.3

Sub-Total Unissued shares of Survivor

10,838,939.2

Issued shares of Merging "C" \_\_\_\_\_

Number of Survivor's Shares to  
be issued for each share of "C" X \_\_\_\_\_

Survivor Shares to be used \_\_\_\_\_

Sub-Total Unissued shares of Survivor

Issued shares of Merging "D" \_\_\_\_\_

Number of Survivor's Shares to  
be issued for each share of "D" X \_\_\_\_\_

Survivor Shares to be used \_\_\_\_\_

Sub-Total Unissued shares of Survivor



## STATE of MISSOURI

JAMES C. KIRKPATRICK, Secretary of State

## CORPORATION DIVISION

## Certificate of Merger— Missouri Corporation Surviving

WHEREAS, Articles of Merger of the following corporations:

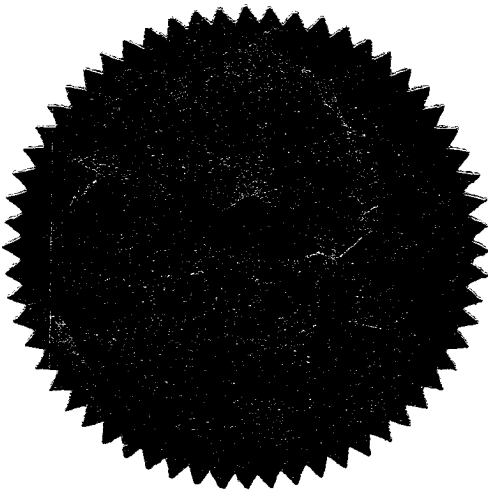
Name of Corporations THE TEXAS AND PACIFIC RAILWAY COMPANY and CHICAGO  
& EASTERN ILLINOIS RAILROAD COMPANY (Neither corporation qualified  
in Missouri) into MISSOURI PACIFIC RAILROAD COMPANY

Organized and Existing Under Laws of the Congress, Indiana and Missouri  
 have been received, found to conform to law, and filed.

NOW, THEREFORE, I, JAMES C. KIRKPATRICK, Secretary of State of the State of Missouri, issue this Certificate of Merger, certifying that the merger of the aforementioned corporations is effected, with MISSOURI PACIFIC RAILROAD COMPANY  
 as the surviving corporation.

IN TESTIMONY WHEREOF, I have hereunto set my hand and  
 affixed the GREAT SEAL of the State of Missouri, at the City  
 of Jefferson, this 14th day of October, 1976.

*James C. Kirkpatrick*  
 Secretary of State



RECEIVED OF: MISSOURI PACIFIC RAILROAD COMPANY

Three and no/100----- Dollars, \$ 3.00

For Credit of General Revenue Fund, on Account of Amendment Fee.

No. R00000740

*Dorothy Mae Miller*  
 Deputy Collector of Revenue

INSTRUMENT OF ASSUMPTION BY THE  
MISSOURI PACIFIC RAILROAD COMPANY  
WITH RESPECT TO FIRST MORTGAGE BONDS OF  
THE TEXAS AND PACIFIC RAILWAY COMPANY

INSTRUMENT OF ASSUMPTION dated as of the 15th day  
of October, 1976, made by the MISSOURI PACIFIC  
RAILROAD COMPANY, a Missouri corporation (sometimes hereinafter  
called MoPac),

W I T N E S S E T H :

WHEREAS, The Texas and Pacific Railway Company, a  
corporation created and existing under an Act of Congress (some-  
times hereinafter called T&P), heretofore executed, acknowledged,  
and delivered to The Fidelity Insurance, Trust and Safe Deposit  
Company, a Pennsylvania corporation by various mergers now  
known as The Fidelity Bank, a Pennsylvania corporation, a First  
Mortgage (hereinafter called First Mortgage) dated February 1,  
1888, which First Mortgage was duly recorded, and which secured  
said Railway Company's 5% First Mortgage Bonds of the same date  
maturing June 1, 2000; and

WHEREAS, of the \$25,000,000 in said First Mortgage  
Bonds originally issued there remain outstanding in the hands of  
the public at the present time \$18,961,000 ; and

WHEREAS, by a Plan and Joint Agreement of Merger, dated  
July 29, 1974, under the terms of which T&P is to be merged into  
MoPac and MoPac is to be the surviving company, it is provided  
that all debts, liabilities and duties of T&P shall, from and

after the effective date of the merger, attach to MoPac and be enforceable against it to the same extent as if originally incurred or contracted by MoPac; and

WHEREAS, the said Plan and Joint Agreement of Merger has been approved by the Boards of Directors and the shareholders of T&P and MoPac; and

WHEREAS, the Interstate Commerce Commission by its Certificate and Order dated May 4, 1976, now effective in Finance Docket Nos. 27773 and 27774 has authorized said merger and the assumption by MoPac pursuant to the Plan and Joint Agreement of Merger of all the liabilities of T&P including all liability of T&P's said First Mortgage Bonds; and

WHEREAS, Article Twelve of said First Mortgage specifically provides:

"And it is further expressly understood and agreed that all the covenants, stipulations, promises, and agreements herein contained by or on behalf of said Company, shall bind and be binding upon its successors and assigns, whether so expressed or not," and

WHEREAS, it is the desire of MoPac by these presents to evidence, simultaneously with such merger its assumption of liability for all of T&P's said First Mortgage Bonds and its obligations under all the terms and conditions of said First Mortgage of February 1, 1888.

NOW, THEREFORE, in consideration of the premises and pursuant to the obligation imposed upon it by the Plan and Joint Agreement of Merger dated July 29, 1974, the Missouri Pacific

Railroad Company does hereby assume all obligation for The Texas and Pacific Railway Company First Mortgage Bonds, 5%, maturing June 1, 2000, with the same effect as if said Missouri Pacific Railroad Company was named in the said First Mortgage as the original party of the first part thereof.

This instrument is supplemental to the said First Mortgage, all the terms and provisions of which shall remain in full force and effect.

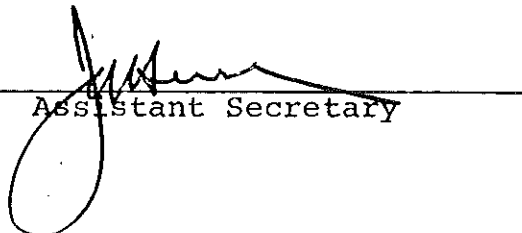
IN WITNESS WHEREOF, the Missouri Pacific Railroad Company has caused this instrument of assumption to be duly executed as of the day and year first above written.

MISSOURI PACIFIC RAILROAD COMPANY

By

  
Vice President

ATTEST:

  
Assistant Secretary

STATE OF MISSOURI )  
 ) ss.  
CITY OF ST. LOUIS )

I, R. C. MASON, a Notary Public in  
and for said City, in the State aforesaid, DO HEREBY CERTIFY  
that M. M. HENNELLY and J. A. HESSE,  
personally known to me to be Vice President and Assistant Sec-  
retary of MISSOURI PACIFIC RAILROAD COMPANY, and personally  
known to me to be the same persons whose names are subscribed  
to the foregoing instrument, appeared before me this day in  
person and severally acknowledged that as such Vice President  
and Assistant Secretary they assigned this instrument and  
caused the corporate seal of said corporation to be affixed  
thereto, pursuant to authority given by the Board of Directors  
of said corporation, as their free and voluntary act and deed  
of said corporation, for the uses and purposes therein set  
forth.

GIVEN under my hand and notarial seal this 15th day  
of October, 1976.

R. C. Mason  
Notary Public

My Commission expires: Sept 28, 1978

R. C. MASON, NOTARY PUBLIC  
County of St. Louis, State of Missouri  
My Commission Expires September 28, 1978

This act performed in the City of St.  
Louis, which adjoins the County of  
St. Louis in which I was commission-  
ed.

Acknowledgment:

THE FIDELITY BANK

By

J. A. Hesse  
Vice President



# Delaware

PAGE 1

## The First State

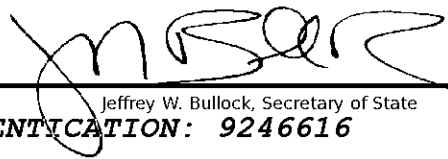
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF MERGER, WHICH MERGES:

"ABILENE & SOUTHERN RAILWAY COMPANY", A TEXAS CORPORATION,  
"FORT WORTH BELT RAILWAY COMPANY", A TEXAS CORPORATION,  
"MISSOURI-ILLINOIS RAILROAD COMPANY", A MISSOURI CORPORATION,  
"MISSOURI PACIFIC RAILROAD COMPANY", A MISSOURI CORPORATION,  
"NEW ORLEANS AND LOWER COAST RAILWAY COMPANY", A LOUISIANA CORPORATION,  
"ST. JOSEPH BELT RAILWAY COMPANY", A MISSOURI CORPORATION,  
"TEXAS-NEW MEXICO RAILWAY COMPANY", A TEXAS CORPORATION,  
"UNION TERMINAL RAILWAY COMPANY", A MISSOURI CORPORATION,  
WITH AND INTO "MISSOURI PACIFIC RAILROAD COMPANY" UNDER THE NAME OF "MISSOURI PACIFIC RAILROAD COMPANY", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE FIRST DAY OF NOVEMBER, A.D. 1978, AT 8:30 O'CLOCK A.M.

0842886 8100M

111321715



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 9246616

DATE: 12-21-11

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

UPRR 000085

**CERTIFICATE OF MERGER**

**OF**

**NEW ORLEANS AND LOWER COAST RAILROAD COMPANY  
MISSOURI-ILLINOIS RAILROAD COMPANY  
MISSOURI PACIFIC RAILROAD COMPANY  
ST. JOSEPH BELT RAILWAY COMPANY  
UNION TERMINAL RAILWAY COMPANY  
ABILENE & SOUTHERN RAILWAY COMPANY  
FORT WORTH BELT RAILWAY COMPANY  
TEXAS-NEW MEXICO RAILWAY COMPANY**

**INTO**

**MISSOURI PACIFIC RAILROAD COMPANY**

**The undersigned corporation**

**DOES HEREBY CERTIFY:**

**FIRST: That the name and state of incorporation  
of each of the constituent corporations of the merger is  
as follows:**

<u>NAME</u>	<u>STATE OF INCORPORATION</u>
MISSOURI PACIFIC RAILROAD COMPANY	Delaware
NEW ORLEANS AND LOWER COAST RAILROAD COMPANY	Louisiana
MISSOURI-ILLINOIS RAILROAD COMPANY	Missouri
MISSOURI PACIFIC RAILROAD COMPANY	Missouri
ST. JOSEPH BELT RAILWAY COMPANY	Missouri
UNION TERMINAL RAILWAY COMPANY	Missouri
ABILENE & SOUTHERN RAILWAY COMPANY	Texas
FORT WORTH BELT RAILWAY COMPANY	Texas
TEXAS-NEW MEXICO RAILWAY COMPANY	Texas

**SECOND: That an agreement of merger between the  
parties to the merger has been approved, adopted, certified,  
executed and acknowledged by each of the constituent cor-  
porations in accordance with the requirements of subsection  
(c) of section 252 of the General Corporation Law of the  
State of Delaware.**

**00019**

**UPRR 000086**

THIRD: The name of the surviving corporation of the merger is MISSOURI PACIFIC RAILROAD COMPANY, a Delaware corporation.

FOURTH: That the certificate of incorporation of MISSOURI PACIFIC RAILROAD COMPANY, a Delaware corporation shall be the certificate of incorporation of the surviving corporation.

FIFTH: That the executed agreement of merger is on file at the principal place of business of the surviving corporation. The address of said principal place of business is 210 North 13th Street, St. Louis, Missouri 63103.

SIXTH: That a copy of the agreement of merger will be furnished on request and without cost to any stockholder of any constituent corporation.

SEVENTH: The authorized capital stock of each foreign corporation which is a party to the merger is as follows:

<u>CORPORATION</u>	<u>CLASS</u>	<u>NUMBER OF SHARES</u>	<u>PAR VALUE PER SHARE OR STATE- MENT THAT SHARES ARE WITHOUT PAR VALUE</u>
NEW ORLEANS AND LOWER COAST RAILROAD COMPANY	Common	3,000	\$100.00
MISSOURI-ILLINOIS RAILROAD COMPANY	Common	35,000	\$100.00
MISSOURI PACIFIC RAILROAD COMPANY (Missouri)	Common	15,000,000	No Par
	Preferred	10,000,000	No Par
ST. JOSEPH BELT RAILWAY COMPANY	Common	5,000	\$100.00
UNION TERMINAL RAILWAY COMPANY	Common	5,000	\$100.00
ABILENE & SOUTHERN RAILWAY COMPANY	Common	2,000	\$100.00

00020

UPRR 000087

FORT WORTH BELT RAILWAY  
COMPANY  
TEXAS-NEW MEXICO RAILWAY  
COMPANY

Common

5,000

\$100.00

Common

5,000

\$100.00

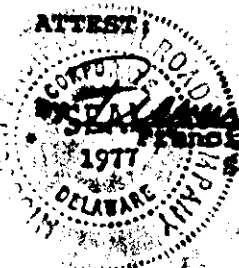
Dated: OCTOBER 31, 1978

MISSOURI PACIFIC RAILROAD COMPANY

By

James T. Ashworth  
President

ATTEST:



1977

DELAWARE

Francis L. Barkotze  
Secretary

00021

UPRR 000088



ART

2008037874

25 PGS

13 RETURN TO:  
ALAMO TITLE COMPANY  
901 S. MOPAC EXPRESSWAY  
BLDG. III, SUITE 100  
AUSTIN, TEXAS 78746-5776

GF# 08-7313469-6



Utah Department of Commerce  
Division of Corporations & Commercial Code  
160 East 300 South, 2nd Floor, Box 146705  
Salt Lake City, UT 84114-6705  
Phone: (801) 530-4849  
Toll Free: (877) 526-3994 Utah Residents  
Fax: (801) 530-6438  
Web site: <http://www.commerce.state.ut.us>

Registration Number: 550224-0142

09/28/01

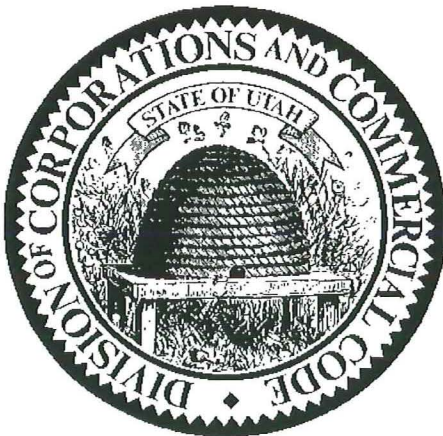
Business Name: UNION PACIFIC RAILROAD COMPANY

Registered Date: JULY 1, 1897

## CERTIFICATE OF ARTICLES OF MERGER

THE UTAH DIVISION OF CORPORATIONS AND COMMERCIAL CODE ("DIVISION") HEREBY CERTIFIES THAT THE ATTACHED IS A TRUE, CORRECT AND COMPLETE COPY OF THE

ARTICLES OF MERGER FILED WITH THIS OFFICE ON JANUARY 1, 1997 MERGING MISSOURI PACIFIC RAILROAD COMPANY, A CORPORATION OF THE STATE OF DELAWARE, INTO UNION PACIFIC RAILROAD COMPANY, THE SURVIVING CORPORATION WHICH IS OF THE STATE OF UTAH, AS APPEARS OF RECORD IN THE OFFICE OF THE DIVISION.



Kathy Berg  
Director  
Division of Corporations and Commercial Code

Dept. of Professional Licensing  
(801)530-6628

Real Estate  
(801)530-6747

Public Utilities  
(801)530-6651

Securities  
(801)530-6600

Consumer Protection  
(801)530-6601

UPRR 000089

EXPEDITE

Co# 002083

I Herby certify that the foregoing has been read and approved on this day of Jan 97 in the office of this Division and hereby issue this Certificate thereof.

CONTAINS A DELAYED EFFECTIVE DATE

RECEIVED

DEC 27 1996

Examiner: PS Date: 12/27/96



Karla S. Woods  
KARLA T. WOODS  
Division Director

ARTICLES OF MERGER OF  
MISSOURI PACIFIC RAILROAD COMPANY  
WITH AND INTO

Utah Div. of Corp. Comm. Code 9:50am

UNION PACIFIC RAILROAD COMPANY

Co# 002083

(Delaware corporation with and into Utah corporation)

Pursuant to the provisions of Section 16-10a-1107 of the Utah Revised Business Corporation Act (the "Act"), Union Pacific Railroad Company, a Utah corporation ("UPRR"), hereby adopts and files the following Articles of Merger relating to the merger of Missouri Pacific Railroad Company, a Delaware corporation ("MPRR"), with and into UPRR, with UPRR remaining as the surviving corporation:



FIRST: The name and place of incorporation of each corporation which is a party to the Merger (as defined below) is as follows:

Name of Corporation

Place of Incorporation

Union Pacific Railroad Company  
Missouri Pacific Railroad Company

Utah  
Delaware

SECOND: The Agreement and Plan of Merger (the "Plan of Merger"), which is attached hereto as Exhibit A, governing the merger between MPRR and UPRR (the "Merger") has been approved pursuant to resolutions duly adopted by the Board of Directors of MPRR and the Board of Directors of UPRR.

THIRD: At the effective time of the Merger (the "Effective Time"), the Restated Articles of Association of UPRR shall be amended and restated in their entirety as set forth in Exhibit A to the Plan of Merger (the "Amended and Restated Articles of Incorporation") and such Amended and Restated Articles of Incorporation shall be the articles of incorporation for the Surviving Corporation (as defined below).

FOURTH: Immediately prior to the Merger, the only classes of capital stock of MPRR were its Common Stock, \$1.00 par value per share (the "MPRR Common Stock"), of which 920 shares were issued and outstanding, and its Class A Stock, \$1.00 par value per share (the "MPRR Class A Stock"), of which 80 shares were issued and outstanding. The Merger was duly approved by the written consent of the sole stockholder of MPRR. Immediately prior to the Merger, there were 38,867,392.7058830729 shares of Common Stock, \$10.00 par value per share, of UPRR (the "UPRR Common Stock") issued and outstanding. UPRR Common Stock is the only class of capital stock of UPRR issued and outstanding. Pursuant to Section 16-10a-1103 of the Act, the Plan of Merger and the Merger were duly approved by each of the shareholders of UPRR.

6362000006

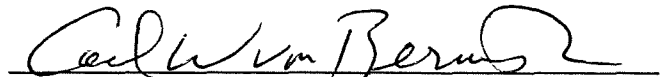
UPRR 000090



FIFTH: At the Effective Time, (i) MPRR shall merge with and into UPRR, which shall survive the Merger and continue as a Utah corporation (the "Surviving Corporation"), (ii) the separate existence of MPRR shall cease, as provided in the Act, (iii) pursuant to the Amended and Restated Articles of Incorporation, the authorized amount of UPRR Common Stock shall be increased from 39,617,870 shares to 92,000,000 shares and UPRR shall be authorized to issue 8,000,000 shares of a new Class A Stock, par value \$10 per share (the "UPRR Class A Stock"), (iv) all of the shares of MPRR Common Stock and MPRR Class A Stock which shall be outstanding immediately prior to the Merger, and all rights in respect thereof, shall forthwith be converted into 19,152,560 shares of UPRR Common Stock and 1,665,440 shares of UPRR Class A Stock, respectively, (v) the 30,467,751.0330599272 shares of UPRR Common Stock owned by Union Pacific Corporation immediately prior to the Merger, and all rights in respect thereof, shall forthwith be converted into 28,030,376 shares of UPRR Common Stock and 2,437,424 shares of UPRR Class A Stock, and (vi) the 8,399,641.6728231457 shares of UPRR Common Stock owned by Chicago and North Western Transportation Company immediately prior to the Merger, and all rights in respect thereof, shall forthwith be converted into 7,727,632 shares of UPRR Common Stock and 671,968 shares of UPRR Class A Stock.

SIXTH: THE MERGER SHALL BECOME EFFECTIVE AT 12:00 NOON EASTERN STANDARD TIME ON JANUARY 1, 1997.

UNION PACIFIC RAILROAD COMPANY



Name: Carl W. von Bernuth

Title: Vice President and General Counsel

December 27, 1996

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AGREEMENT AND PLAN OF MERGER

AGREEMENT AND PLAN OF MERGER, dated as of this 21st day of November, 1996, pursuant to Section 252 of the Delaware General Corporation Law and Sections 16-10a-1101 and 16-10a-1107 of the Utah Revised Business Corporation Act, between Union Pacific Railroad Company, a Utah corporation ("UPRR"), and Missouri Pacific Railroad Company, a Delaware corporation ("MPRR").

WITNESSETH that:

WHEREAS, each of the constituent corporations deems it advisable and in its best interest to merge into a single corporation; and

WHEREAS, each of the constituent corporations desires to adopt this Agreement and Plan of Merger and to consummate the merger in accordance with the terms hereof;

NOW, THEREFORE, the corporations, parties to this Agreement and Plan of Merger, in consideration of the mutual covenants, agreements and provisions hereinafter contained, do hereby prescribe the terms and conditions of said merger and mode of carrying the same into effect as follows:

FIRST: UPRR shall merge into itself MPRR, and MPRR shall be merged into UPRR (collectively, the "Merger"), with UPRR being the surviving corporation (the "Surviving Corporation").

SECOND: Subject to prior approval by UPRR's shareholders, Union Pacific Corporation ("UPC") and Chicago and North Western Transportation Company ("CNWT"), upon the effective time of the Merger (the "Effective Time") the Restated Articles of Association of UPRR shall be amended and restated in their entirety as set forth in Exhibit A hereto (the "Amended and Restated Articles of Incorporation") and such Amended and Restated Articles of Incorporation shall be the articles of incorporation for the Surviving Corporation. Pursuant to such Amended and Restated Articles of Incorporation, the number of authorized shares of Common Stock, \$10.00 par value per share, of UPRR ("UPRR Common Stock") shall be increased from 39,617,870 to 92,000,000 and UPRR shall be authorized to issue 8,000,000 shares of its Class A Stock, \$10.00 par value per share (the "UPRR Class A Stock").

THIRD: The manner of converting the outstanding shares of the capital stock of the constituent corporations shall be as follows:

(a) All of the shares of Common Stock, \$1.00 par value per share, of MPRR ("MPRR Common Stock"), and of Class A Stock, \$1.00 par value per share,

of MPRR ("MPRR Class A Stock"), which shall be outstanding immediately prior to the Effective Time, and all rights in respect thereof, shall forthwith be changed and converted into 19,152,560 shares of UPRR Common Stock and 1,665,440 shares of UPRR Class A Stock, respectively. No other cash, shares, securities or obligations will be distributed or issued upon the conversion of the shares of MPRR Common Stock or MPRR Class A Stock.

(b) Subject to prior approval of this Agreement and Plan of Merger by UPC and CNWT, (i) the 30,467,751.0330599272 shares of UPRR Common Stock owed by UPC immediately prior to the Effective Time, and all rights in respect thereof, shall forthwith be changed and converted into 28,030,376 shares of UPRR Common Stock and 2,437,424 shares of UPRR Class A Stock, and (ii) the 8,399,641.6728231457 shares of UPRR Common Stock owned by CNWT immediately prior to the Effective Time, and all rights in respect thereof, shall forthwith be changed and converted into 7,727,632 shares of UPRR Common Stock and 671,968 shares of UPRR Class A Stock. No other cash, shares, securities or obligations will be distributed or issued upon the conversion of the shares of UPRR Common Stock held by UPC or CNWT.

(c) After the Effective Time, the stockholders of MPRR and UPRR shall surrender all outstanding certificates representing shares of MPRR Common Stock, MPRR Class A Stock and UPRR Common Stock, and shall be entitled upon such surrender to receive the number of shares of UPRR Common Stock and UPRR Class A Stock on the basis provided herein. Until so surrendered, the outstanding certificates representing shares of MPRR Common Stock, MPRR Class A Stock and UPRR Common Stock, to be converted into UPRR Common Stock and UPRR Class A Stock as provided herein, may be treated by such stockholders and UPRR for all corporate purposes as evidencing the ownership of shares of UPRR as though said surrender and exchange had taken place.

FOURTH: The terms and conditions of the Merger are as follows:

(a) The By-Laws of UPRR as they shall exist immediately prior to the Effective Time shall be the by-laws of the Surviving Corporation until the same shall be altered, amended or repealed as therein provided.

(b) The directors and officers of UPRR immediately prior to the Effective Time shall, from and after the Effective Time, be the directors and officers of UPRR until their successors shall have been duly elected or appointed or qualified or until their earlier death, resignation or removal in accordance with the Amended and Restated Articles of Incorporation and the By-Laws of the Surviving Corporation.

(c) The Merger shall become effective at 12:00 noon Eastern Standard Time on January 1, 1997.

(d) Upon the Merger becoming effective, all the property, rights, privileges, franchises, patents, trademarks, licenses, registrations, and other assets of every kind and description of MPRR shall be transferred to and vested in and shall devolve upon UPRR without further act or deed and all property, rights, and every other interest of UPRR and MPRR shall be as effectively the property of UPRR as they were of UPRR and MPRR, respectively. MPRR hereby agrees from time to time, as and when requested by UPRR or by its successors or assigns, to execute and deliver or cause to be executed and delivered all such deeds and instruments and to take or cause to be taken such further or other action as UPRR may deem necessary or desirable in order to vest in and confirm to UPRR title to and possession of any property of MPRR acquired or to be acquired by reason of or as a result of the Merger and otherwise to carry out the intent and purposes hereof, and the proper officers and directors of MPRR and the proper officers and directors of UPRR are fully authorized in the name of MPRR to take any and all such action.

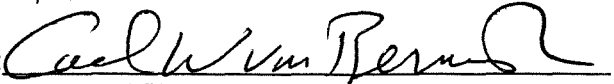
(e) Upon the Merger becoming effective, all obligations and liabilities of MPRR shall be assumed by UPRR as if UPRR itself had incurred them.

(f) UPRR may be served with process in the State of Delaware in any proceeding for enforcement of any obligation of MPRR as well as for enforcement of any obligation of UPRR arising from the Merger, and it does hereby irrevocably appoint the Secretary of State of the State of Delaware as its agent to accept service of process in any such suit or other proceeding. The address to which a copy of such process shall be mailed by the Secretary of State of the State of Delaware is 1416 Dodge Street, Omaha, Nebraska 68179, Attention: Vice President-Law, until UPRR shall have hereafter designated in writing to the said Secretary of State a different address for such purpose. Service of such process may be made by personally delivering to and leaving with the Secretary of State of the State of Delaware duplicate copies of such process, one of which copies the Secretary of State of the State of Delaware shall forthwith send by registered mail to UPRR at the above address.

FIFTH: Anything herein or elsewhere to the contrary notwithstanding, this Agreement and Plan of Merger may be terminated and abandoned by the Board of Directors of either constituent corporation at any time prior to the date of filing the Certificate of Merger with the Secretary of State of the State of Delaware and the Articles of Merger with the Utah Division of Corporations and Commercial Code.

IN WITNESS WHEREOF, the parties to this Agreement and Plan of Merger, pursuant to the approval and authority duly given by resolutions adopted by their respective Boards of Directors, have caused these presents to be executed by the duly authorized officer of each party hereto as the respective act, deed and agreement of each of said corporations, as of this 21st day of November, 1996.

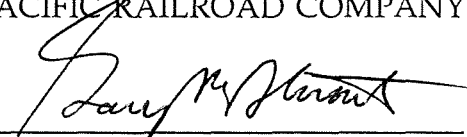
UNION PACIFIC RAILROAD COMPANY

By: 

Name: Carl W. von Bernuth

Title: Vice President and General Counsel

MISSOURI PACIFIC RAILROAD COMPANY

By: 

Name: Gary M. Stuart

Title: Treasurer

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**EXPEDITE**

Exhibit A

**AMENDED AND RESTATED ARTICLES OF INCORPORATION**

**OF**

CS# 002083

**UNION PACIFIC RAILROAD COMPANY**

**RECEIVED**

**DEC 27 1996**

**ARTICLE I - NAME**

The name of the corporation is Union Pacific Railroad Company (the "Corporation").

Utah Div. of Corp. Comm. Code 9:50 am  
dyj

**ARTICLE II - PURPOSE**

The purpose of the Corporation is to engage in any lawful act or activity for which corporations may be organized under the Utah Revised Business Corporation Act (as it may be amended from time to time, the "Act").

**ARTICLE III - AUTHORIZED SHARES**

3.1 Authorized Capital. The Corporation is authorized to issue two classes of capital stock to be designated, respectively, "Common Stock" and "Class A Stock." The total number of shares of all classes of capital stock which the Corporation shall have authority to issue shall be One Hundred Million (100,000,000). The total number of authorized shares of Common Stock shall be Ninety-Two Million (92,000,000), and the par value of each such share shall be Ten Dollars (\$10.00). The total number of authorized shares of Class A Stock shall be Eight Million (8,000,000), and the par value of each such share shall be Ten Dollars (\$10.00).

3.2 Issuance of Class A Stock. The Class A Stock shall be issued only in such number of shares as, when taken together with the number of shares of Common Stock issued and outstanding, will equal 8% of the total number of shares of Class A Stock and Common Stock outstanding.

6362000006

**UPRR 000096**

3.3 Identical Rights and Privileges; Voting; Liquidation. The Common Stock and Class A Stock shall be identical in all respects and shall have the same voting, liquidation and other rights, except as provided herein with respect to cash dividends. The Common Stock and Class A Stock shall vote as a single class on all matters and shall have unlimited voting rights. Upon dissolution, the holders of the Common Stock and Class A Stock shall be entitled to receive the net assets of the Corporation. Such net assets shall be divided among and paid to the holders on a pro-rata basis based on the number of shares of Common Stock and Class A Stock held by them.

3.4 Dividend Rights of Class A Stock. The shares of Class A Stock shall be entitled to a cash dividend, as and when a cash dividend is declared on the shares of Common Stock, in such amount as shall equal 8% of the sum of such dividend on the Class A Stock and such dividend on the Common Stock, provided that dividends shall be declared and paid in any calendar year on the Class A Stock only to the extent that Unappropriated Allocated Available Income (as defined below) in respect of prior calendar years (including Unappropriated Allocated Available Income for years prior to the merger of MPRR (as defined below) into the Corporation) shall be sufficient to pay any required Additional Sinking Fund Payment (as defined below).

If any deficiency in the payment of cash dividends on the Class A Stock occurs because Unappropriated Allocated Available Income is insufficient to permit the requisite Additional Sinking Fund Payment, a special cash dividend shall be paid on the Class A Stock in the amount of such deficiency as and when Unappropriated Allocated Available Income which is subsequently earned in respect of a calendar year suffices to permit an



Additional Sinking Fund Payment in the requisite amount related to such special cash dividend to be made in accordance with the preceding paragraph.

Any deficiency in the payment of cash dividends on the Class A Stock of MPRR which shall have accrued prior to the merger of MPRR into the Corporation shall, from and after the effectiveness of such merger, be treated as a deficiency in the payment of cash dividends on the Corporation's Class A Stock and shall be payable to the holders of the Corporation's Class A Stock as a special cash dividend in accordance with the next preceding paragraph.

3.5 No Restrictions on Common Stock Dividends. Nothing in this Article III shall limit or restrict the amount of dividends which the Corporation may pay on the Common Stock.

3.6 Subdivision or Combination. If the Corporation shall in any manner subdivide (by stock split, stock dividend or otherwise) or combine (by reverse stock split or otherwise) the outstanding shares of either the Common Stock or the Class A Stock, or in the event of any change in the capitalization of the Corporation as the result of a merger of the Corporation with or into another company or a similar transaction, the voting, dividend and liquidation rights of Class A Stock relative to Common Stock shall be appropriately adjusted so as to avoid any dilution in the aggregate voting, dividend or liquidation rights of the Class A Stock in relation to the Common Stock.

3.7 Definitions. The following definitions shall apply to this Article III:

An "Additional Sinking Fund Payment" means the sinking fund payment required by the terms of the third paragraph of the Certificates and Section 3.03 of the

Indenture and shall be an amount equal to 25% of the aggregate amount of cash dividends declared and paid on the Class A Stock.

The "Certificates" mean the Registered Certificates Representing a Charge on Income issued by MKT and dated as of January 1, 1958, as modified by the Order of the Interstate Commerce Commission served May 19, 1988, in Finance Docket No. 30800 (the "Order").

The "Debentures" mean the 5½% Subordinated Income Debentures due January 1, 2033, issued by MKT pursuant to the Indenture.

The "Indenture" means that certain Indenture, dated as of January 1, 1958, between MKT and The New York Trust Company, as modified by (i) a First Supplemental Indenture, dated as of July 1, 1960, between MKT and Chemical Bank New York Trust Company (as successor to The New York Trust Company), (ii) the Order and a Second Supplemental Indenture, dated as of August 12, 1988, between MPRR (as successor to MKT) and Chemical Bank (formerly called Chemical Bank New York Trust Company), and (iii) a Third Supplemental Indenture, dated as of January 1, 1997, between the Corporation (as successor to MPRR) and The Chase Manhattan Bank (formerly called Chemical Bank).

"MKT" means Missouri-Kansas-Texas Railroad Company, a Delaware corporation.

"MPRR" means Missouri Pacific Railroad Company, a Delaware corporation.

"Unappropriated Allocated Available Income" for a calendar year means the Allocated Available Income (as defined in the Indenture) remaining unappropriated under

clause (6) of the provisions of the Certificates relating to the application of Allocated Available Income and paragraph (6) of Section 2.03 of the Indenture.

#### **ARTICLE IV - LIMITATION OF LIABILITY OF DIRECTORS**

To the fullest extent permitted by the Act or any other applicable law as now in effect or as may hereafter be amended, a director of the Corporation shall not be liable to the Corporation or its shareholders for monetary damages for any action taken or any failure to take any action as a director. No amendment to or repeal of this Article IV shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any action or failure to act by such director occurring prior to such amendment or repeal.

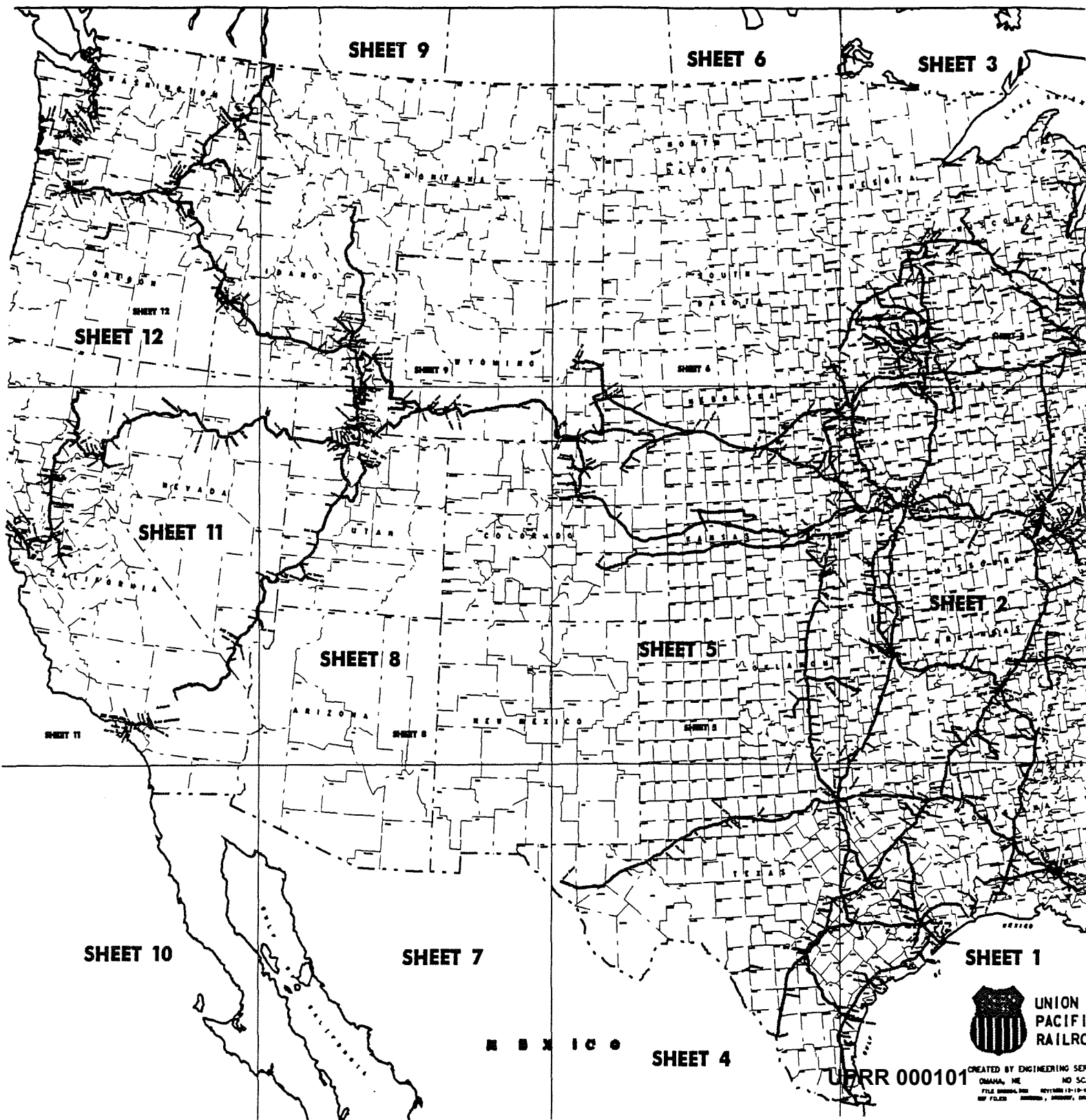
#### **ARTICLE V - LOCATION OF RAILROAD LINES**

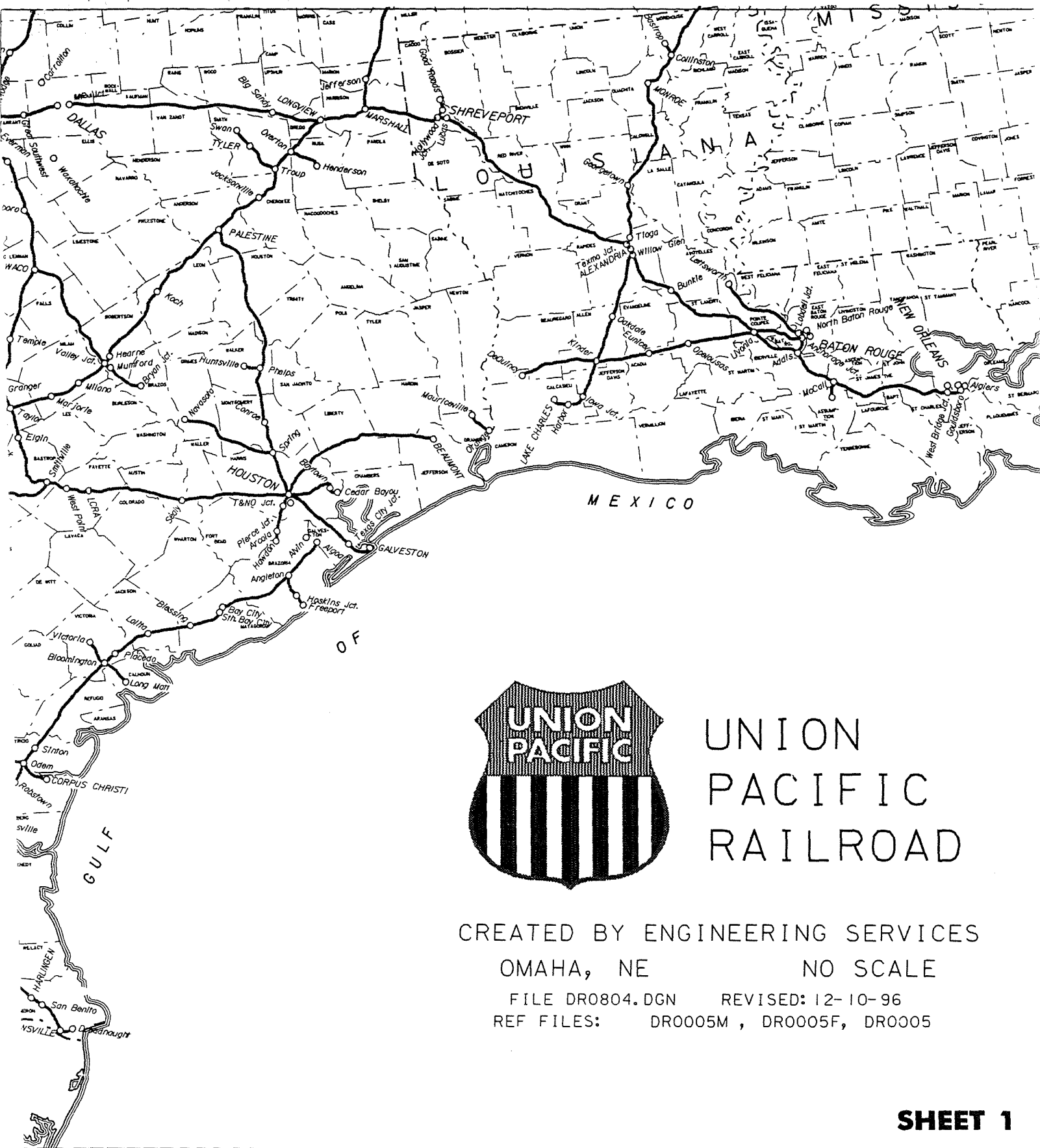
The Corporation operates approximately 32,000 miles of railroad lines. The names of the places between which and of the states and counties through or in which such railroad lines are located are set forth in Exhibit A hereto.

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RECORDERS MEMORANDUM

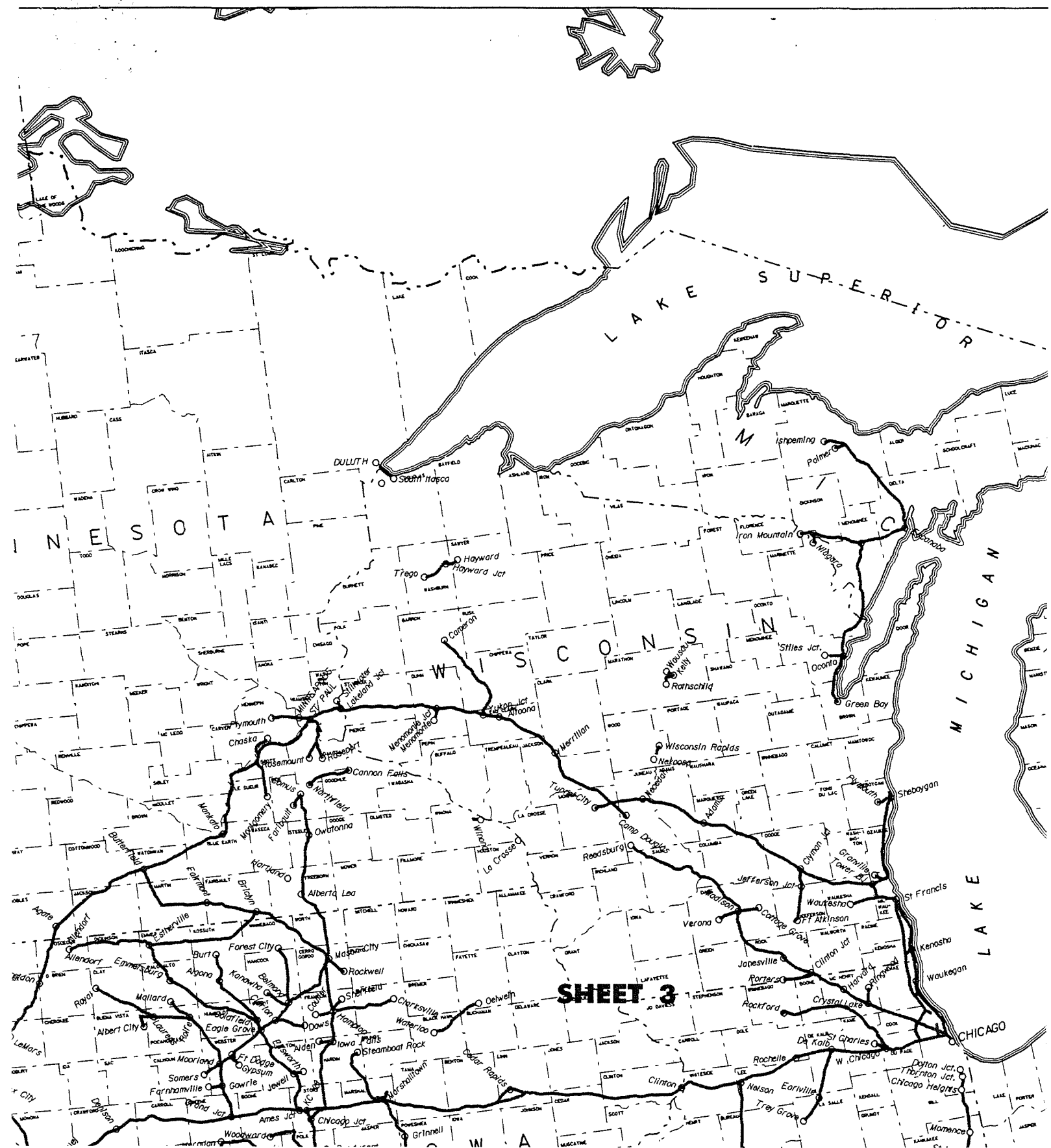
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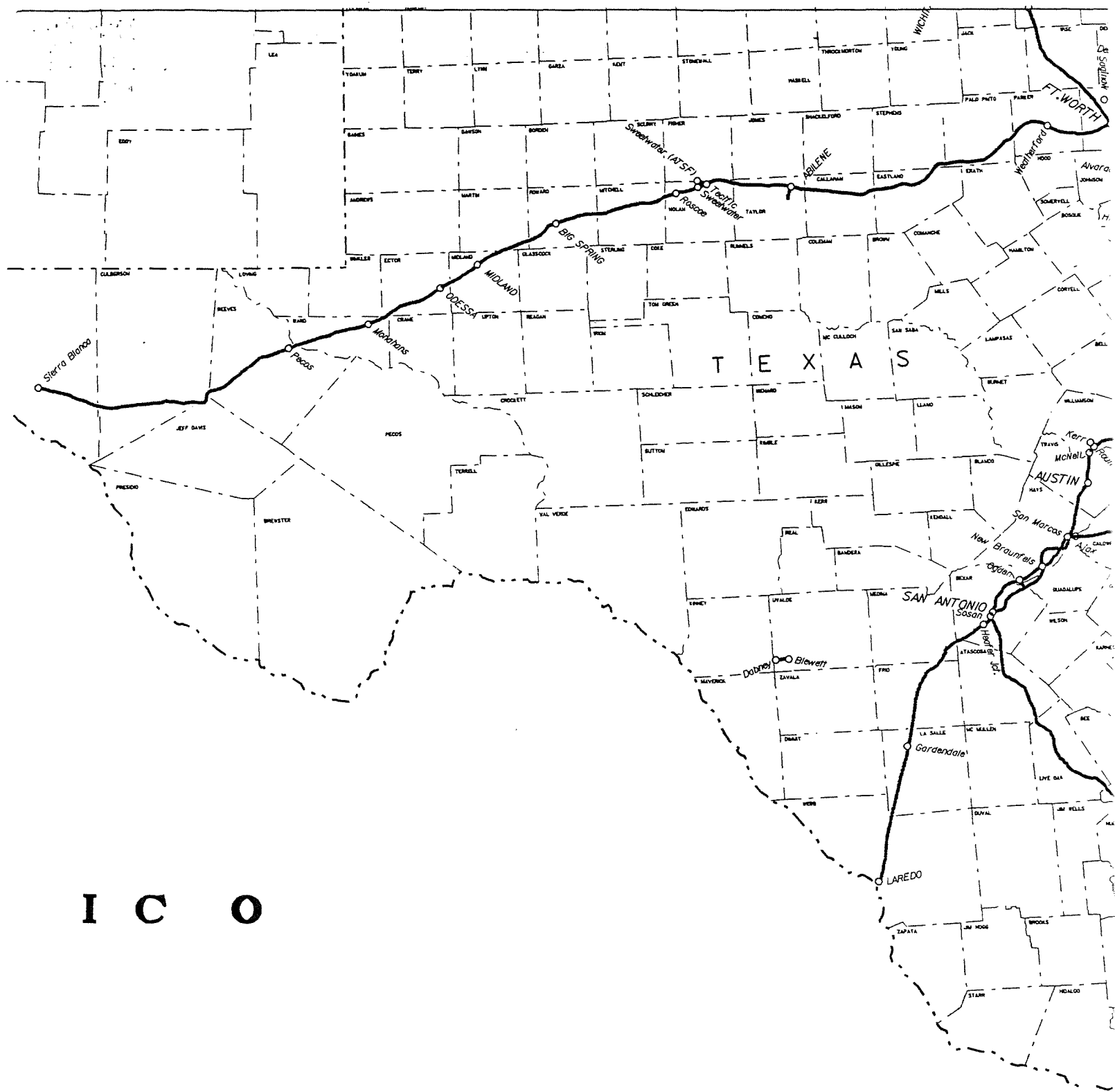
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UPRR 000103



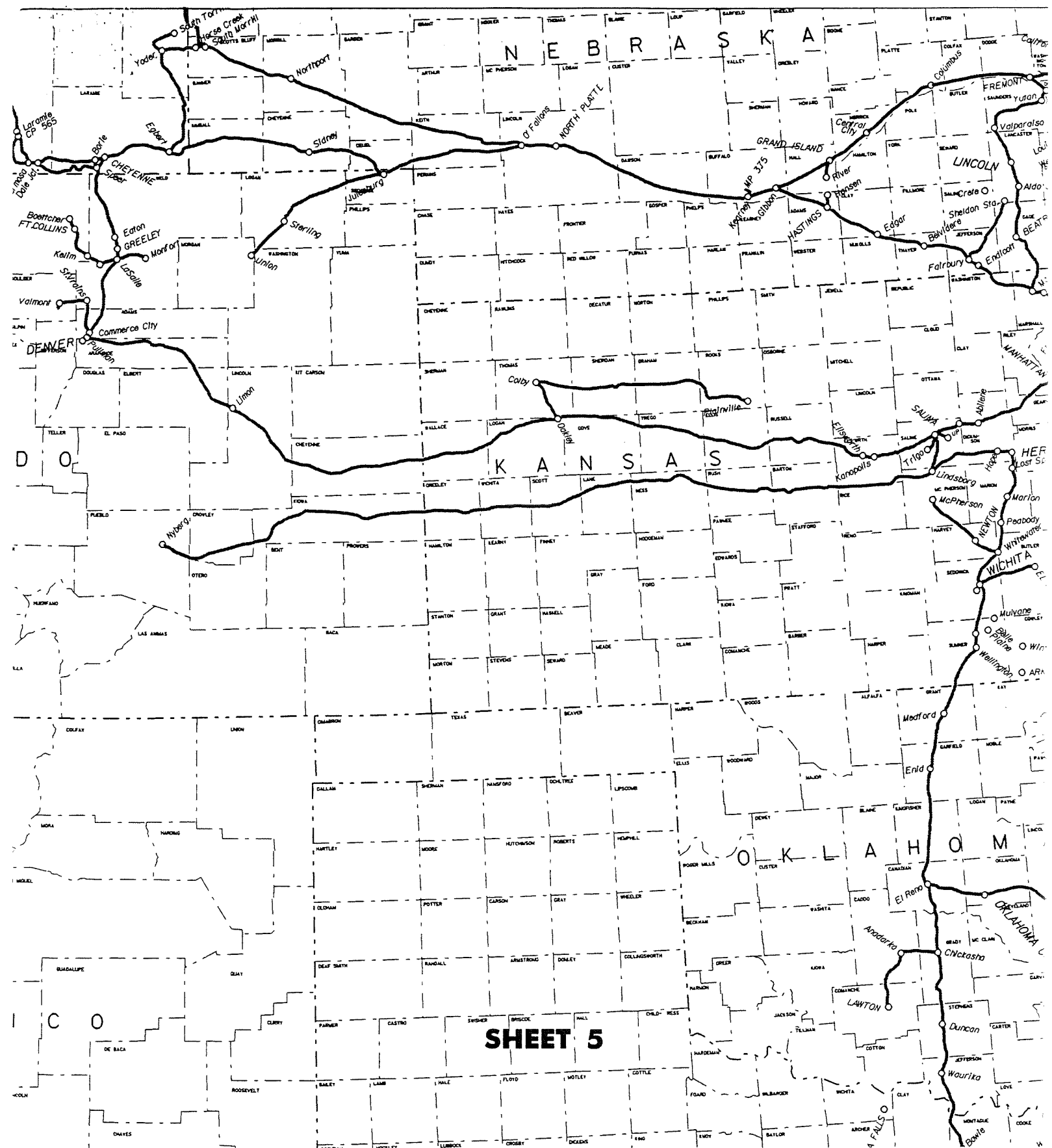
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## SHEET 4

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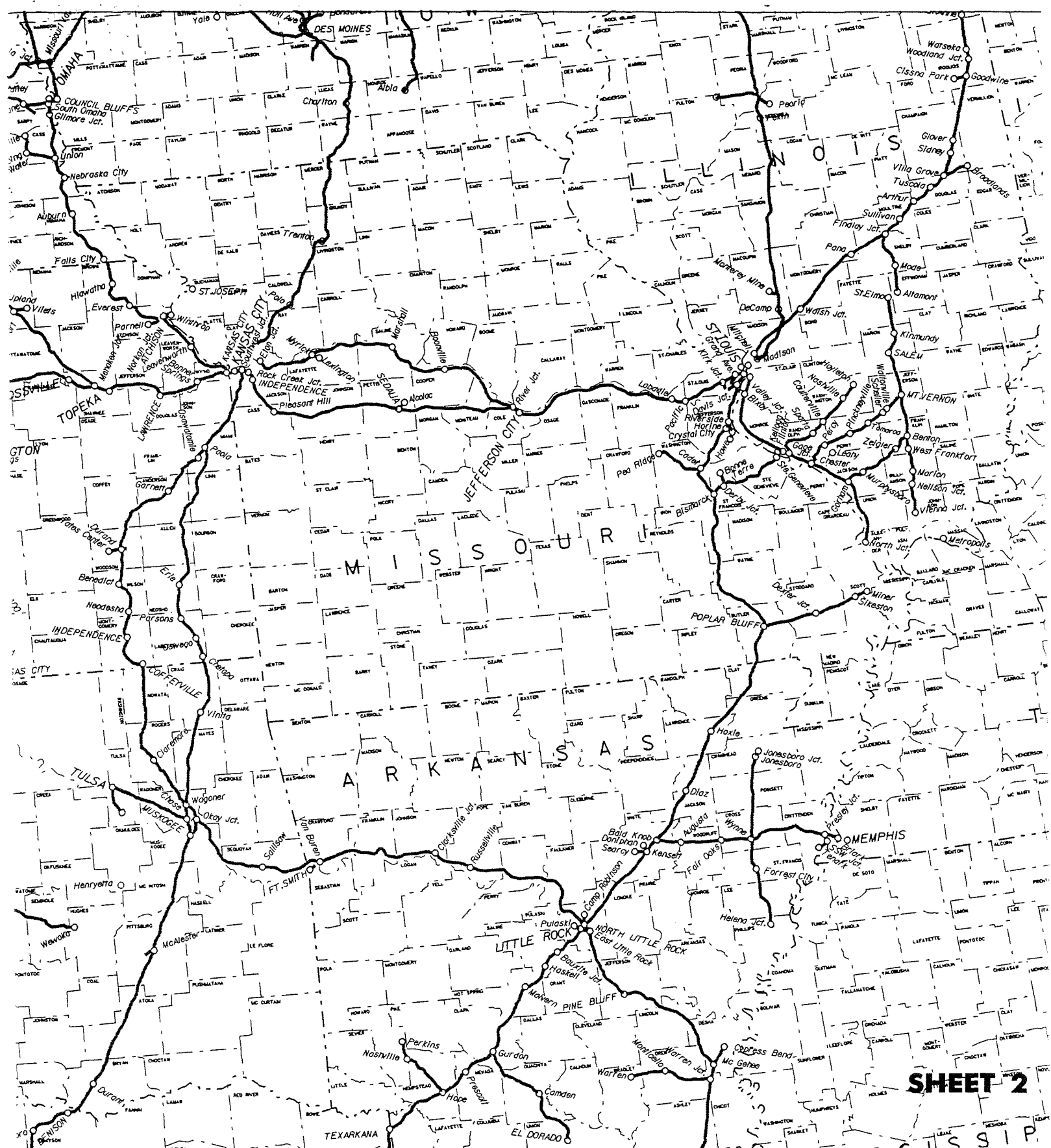
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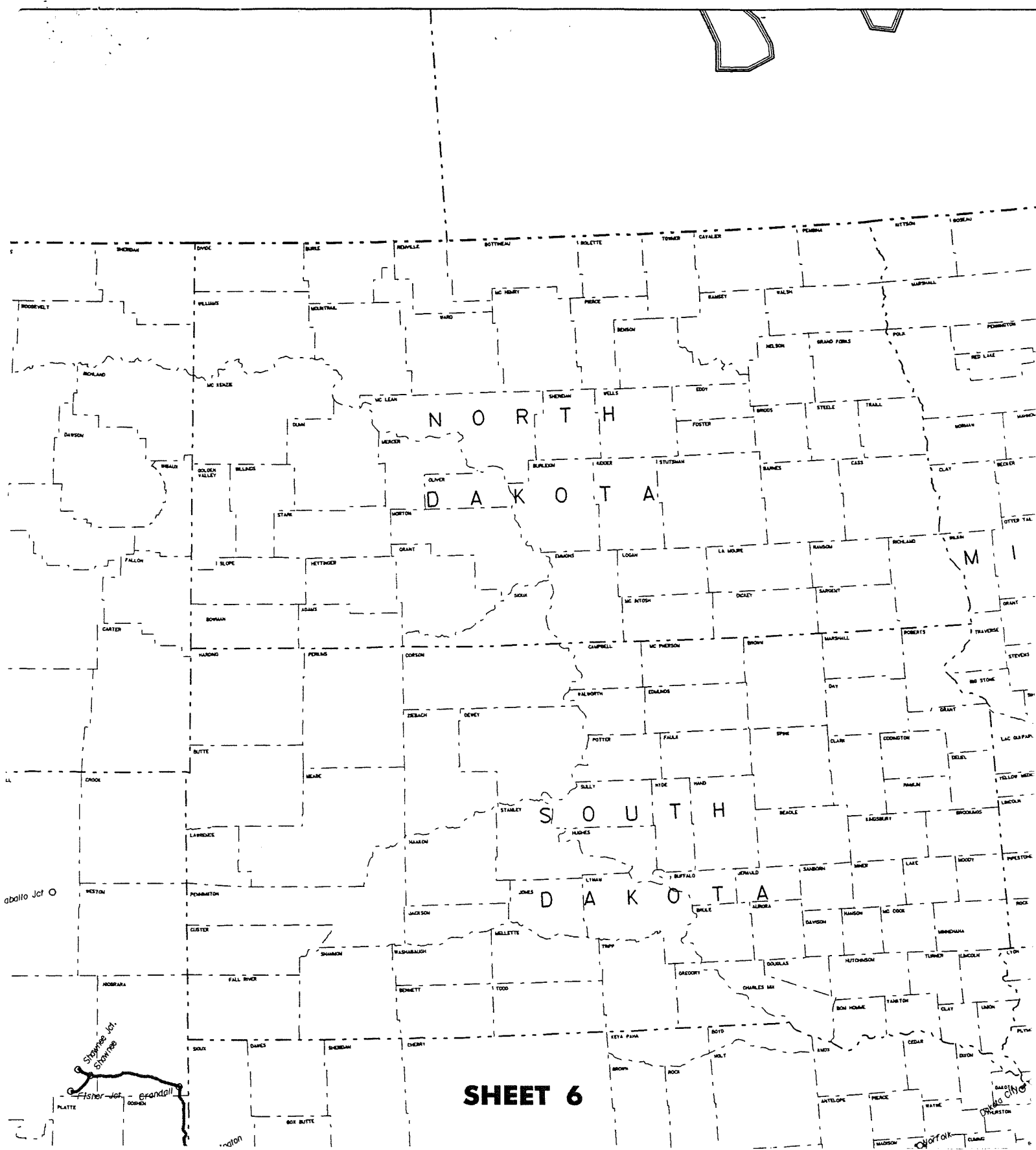
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UPRR 000105



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UPRR 000106

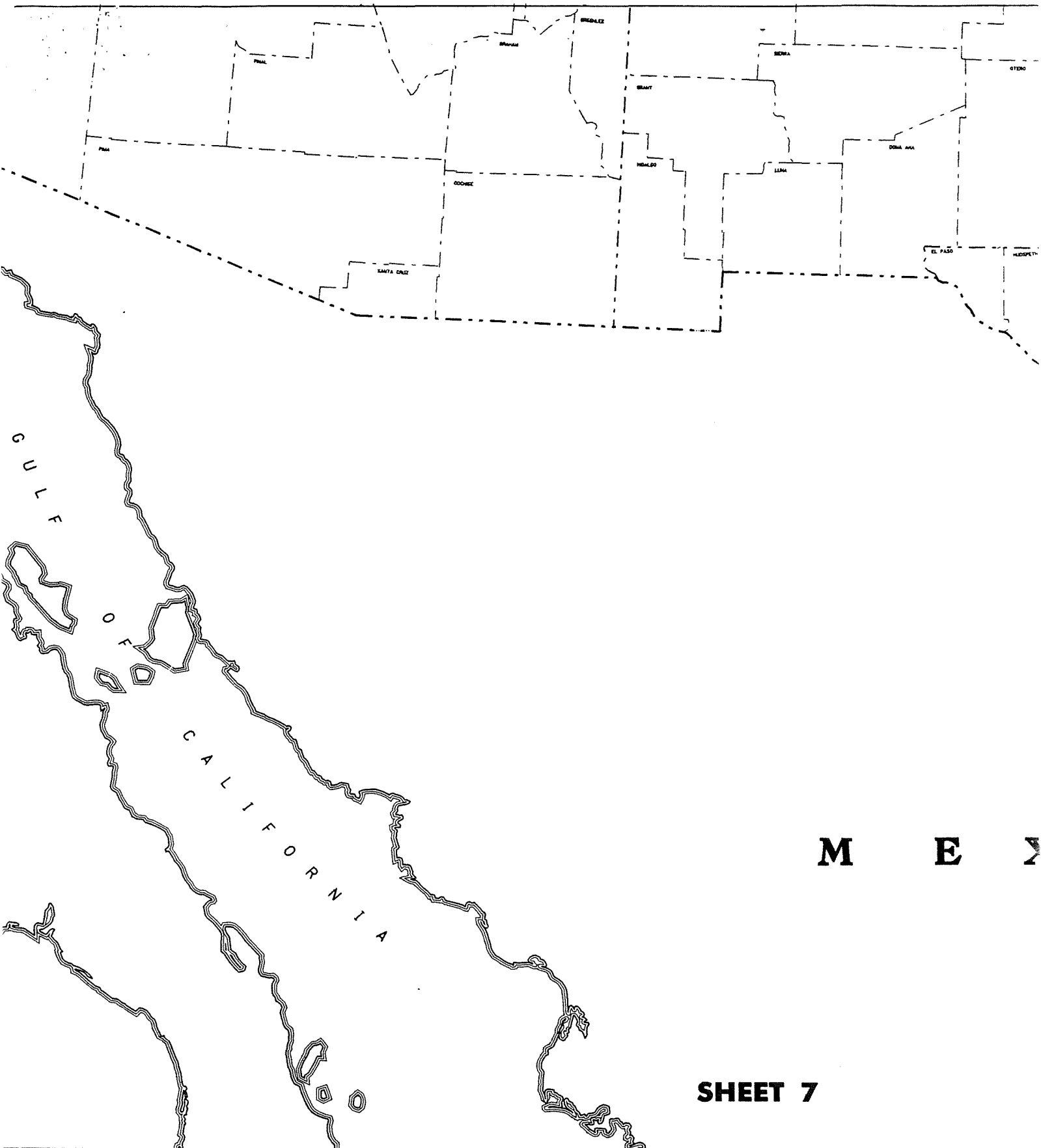


## SHEET 6

### RECORDERS MEMORANDUM

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UPRR 000107

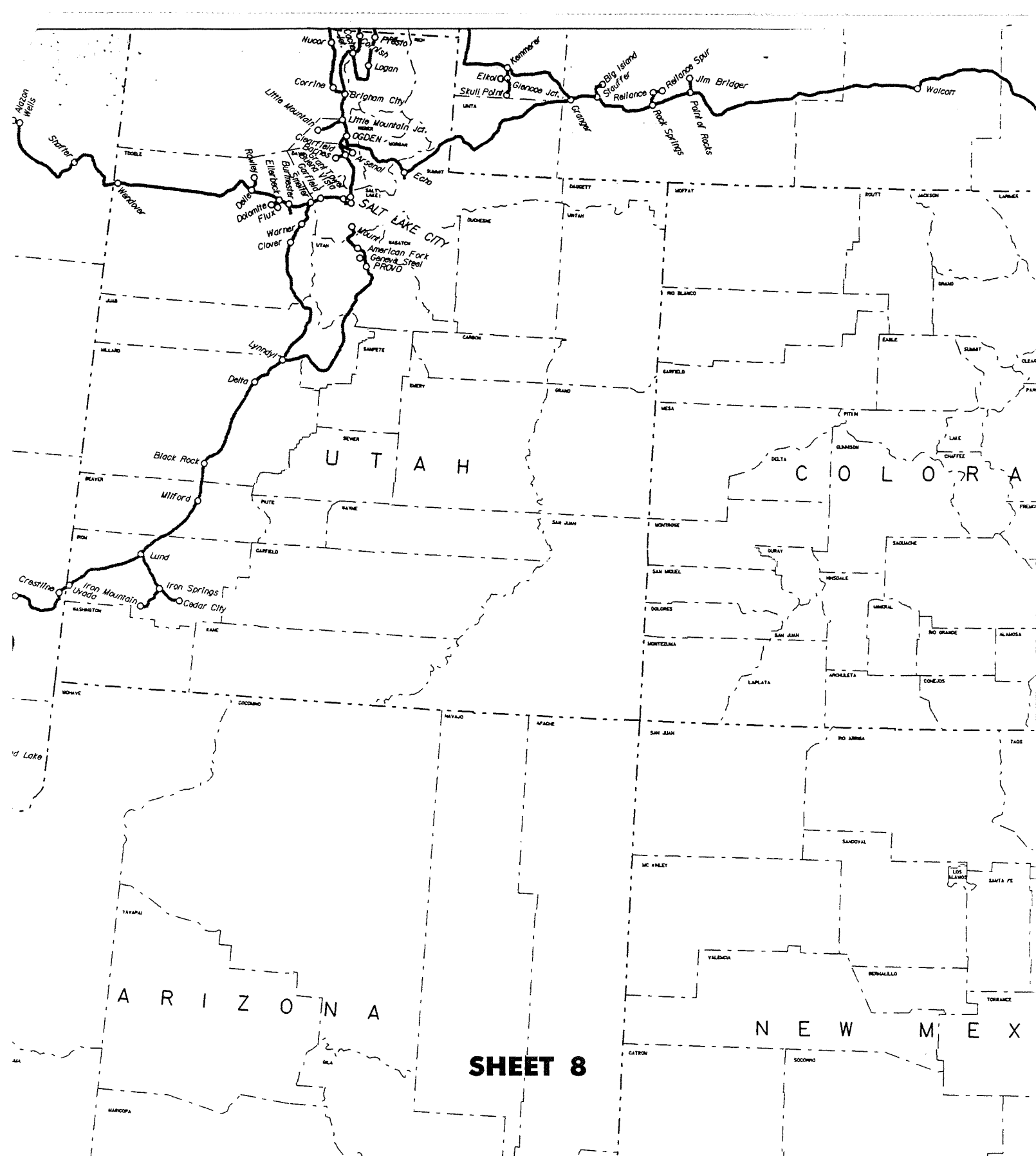


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**SHEET 7**

**RECORDERS MEMORANDUM**  
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**UPRR 000108**

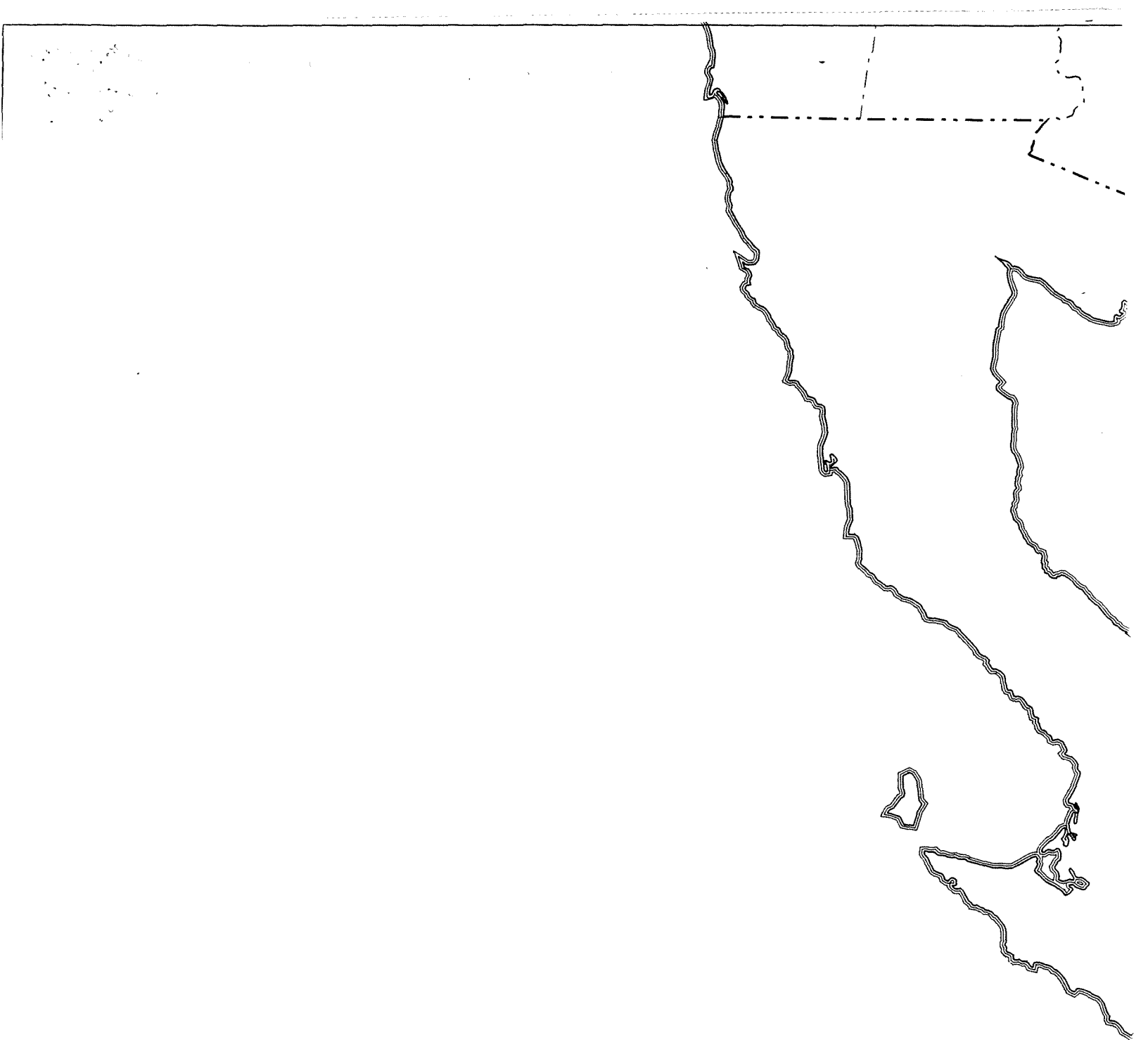


**RECORDERS MEMORANDUM**

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**UPRR 000109**

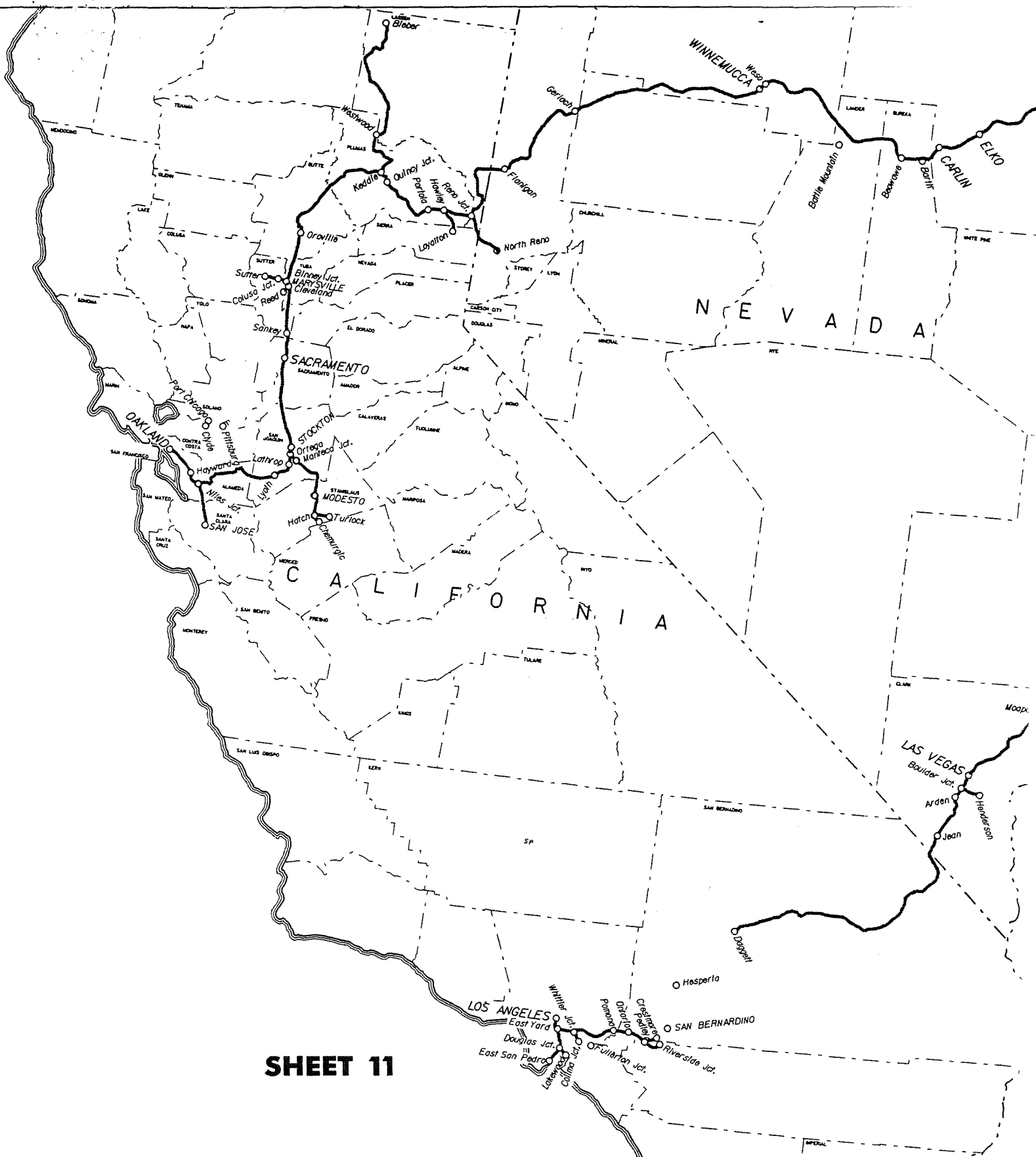




**SHEET 10**

**UPRR 000111**



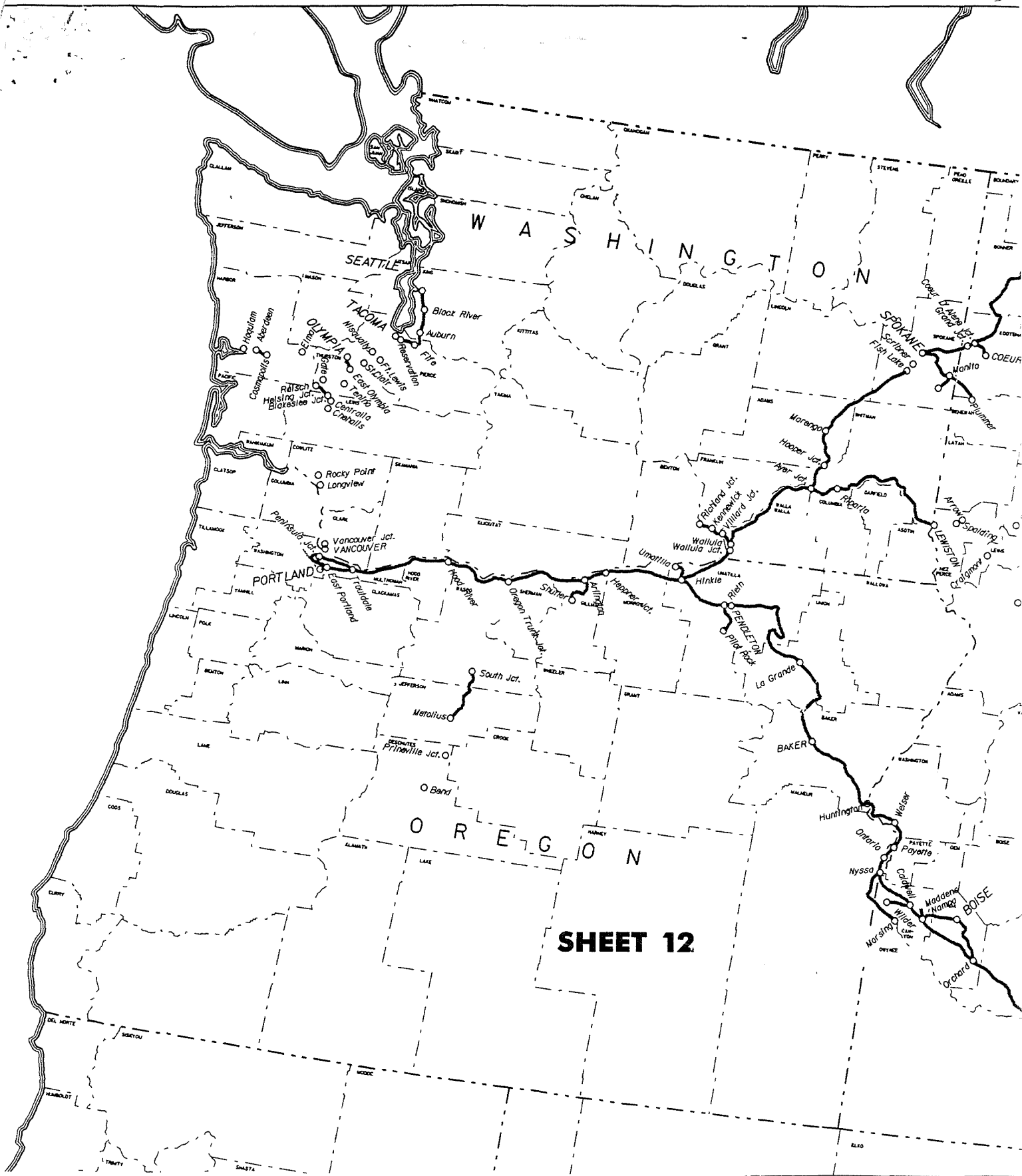


**SHEET 11**

**RECORDERS MEMORANDUM**

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**UPRR 000112**



**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS 2008037874

*Nancy E. Rister*

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NANCY E. RISTER, COUNTY CLERK

WILLIAMSON COUNTY, TEXAS

# Delaware

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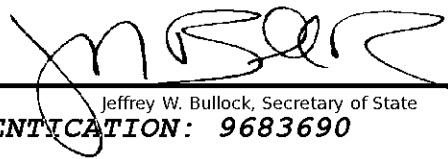
*The First State*

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF CORRECTION OF "UNION PACIFIC RAILROAD COMPANY", FILED IN THIS OFFICE ON THE SECOND DAY OF MARCH, A.D. 1998, AT 8:30 O'CLOCK A.M.

0703228 8100

120798610



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 9683690

DATE: 07-02-12

You may verify this certificate online  
at [corp.delaware.gov/authver.shtml](http://corp.delaware.gov/authver.shtml)

UPRR 000115

CORRECTED

CERTIFICATE OF MERGER

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Pursuant to Section 103(f) of the General  
Corporation Law of the State of Delaware

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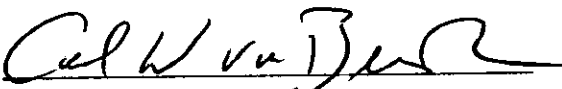
FIRST: On January 30, 1998, a Certificate of Merger was filed in which Union Pacific Railroad Company, a Utah corporation, merged with and into Southern Pacific Transportation Company (the "Corporation"), a Delaware corporation. At the effective time of the merger, the Corporation changed its name to Union Pacific Railroad Company.

SECOND: Exhibit A to the Certificate of Merger contained typographical errors throughout the document. The Certificate of Merger attaching Exhibit A is hereby corrected to read in its entirety as attached hereto.

THIRD: This foregoing correction was prepared in accordance with the provisions of Section 103(f) of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, this Corrected Certificate of Merger has been duly executed as of this 24<sup>th</sup> day of February, 1998.

UNION PACIFIC RAILROAD COMPANY

By:   
Name: Carl W. von Bernuth  
Title: Vice President and General Counsel

CERTIFICATE OF MERGER

OF

UNION PACIFIC RAILROAD COMPANY

WITH AND INTO

SOUTHERN PACIFIC TRANSPORTATION COMPANY

Pursuant to Section 252 of the General Corporation Law of the State of Delaware, Southern Pacific Transportation Company, a Delaware corporation ("SPT"), hereby certifies to the following information relating to the merger (the "Merger") of Union Pacific Railroad Company, a Utah corporation ("UPRR"), with and into SPT:

FIRST: The name and state of incorporation of each of the constituent corporations is:

<u>Name</u>	<u>State</u>
Union Pacific Railroad Company	Utah
Southern Pacific Transportation Company	Delaware

SECOND: An Agreement and Plan of Merger, dated as of January 29, 1998 (the "Plan of Merger"), has been approved, adopted, certified, executed and acknowledged by each constituent corporation in accordance with the provisions of Section 252 of the General Corporation Law of the State of Delaware and the provisions of Section 16-10a-1107 of the Utah Revised Business Corporation Act.

THIRD: The name of the surviving corporation is Southern Pacific Transportation Company, provided that at the effective time of the Merger (the "Effective Time") its name shall be changed to Union Pacific Railroad Company (the "Surviving Corporation").

FOURTH: At the Effective Time, the Certificate of Incorporation of SPT in effect immediately prior to the Effective Time shall be amended in its entirety as set forth in Exhibit A hereto and, as so amended, shall be the certificate of incorporation for the Surviving Corporation.

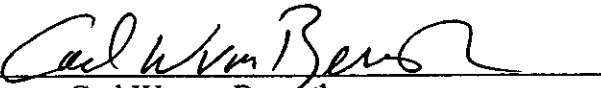
FIFTH: An executed copy of the Plan of Merger is on file at the principal office of the Surviving Corporation, located at 1416 Dodge Street, Omaha, Nebraska 68179. A copy of the Plan of Merger will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of SPT or any shareholder of UPRR.

SIXTH: Immediately prior to the Merger, the only classes of capital stock of UPRR were: (a) its Common Stock, \$10.00 par value per share, of which 92,000,000 shares were authorized and 62,220,244 shares were issued and outstanding; (b) its Class A Stock, par value \$10.00 per share, of which 8,000,000 shares were authorized and 5,410,456 shares were issued and outstanding; and (c) its Redeemable Preference Shares (Series A and Series B) with an initial par value of \$10,000 per share, of which 5,500 shares were authorized and 4,829 Redeemable Preference Shares, Series A, and 436 Redeemable Preference Shares, Series B, were issued and outstanding.

SEVENTH: The Merger shall become effective at 12:01 a.m. Eastern Standard Time on February 1, 1998.

IN WITNESS WHEREOF, SPT has caused this Certificate of Merger to be executed by its duly authorized officer as of this 29<sup>th</sup> day of January, 1998.

SOUTHERN PACIFIC TRANSPORTATION  
COMPANY

By:   
Name: Carl W. von Bernuth  
Title: Vice President and General Counsel

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CERTIFICATE OF INCORPORATION  
OF  
UNION PACIFIC RAILROAD COMPANY

ARTICLE I – NAME

The name of the corporation is Union Pacific Railroad Company (the "Corporation").

ARTICLE II – ADDRESS AND REGISTERED AGENT

The address of the registered office of the Corporation in the State of Delaware is 1209 Orange Street, in the City of Wilmington, County of New Castle. The name of its registered agent at such address is The Corporation Trust Company.

ARTICLE III – PURPOSE

The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of the State of Delaware (as the same may be amended from time to time, the "GCL").

ARTICLE IV – AUTHORIZED SHARES

4.1 Authorized Capital. The Corporation is authorized to issue three classes of capital stock to be designated, respectively, "Common Stock", "Class A Stock" and "Redeemable Preference Shares." The total number of shares of all classes of capital stock which the Corporation shall have authority to issue shall be Fifteen Thousand Five Hundred (15,500). The total number of authorized shares of Common Stock shall be Nine Thousand Two Hundred (9,200), and the par value of each such share shall be Ten Dollars (\$10.00). The total number of authorized shares of Class A Stock shall be Eight Hundred (800), and the par value of each such share shall be Ten Dollars (\$10.00). The total number of authorized shares of Redeemable Preference Shares shall be Five Thousand Five Hundred (5,500), with an initial par value of \$10,000 per share.

4.2 Issuance of Class A Stock. The Class A Stock shall be issued only in such number of shares as, when taken together with the number of shares of Common Stock issued and outstanding, will equal 8% of the total number of shares of Class A Stock and Common Stock outstanding.

4.3 Identical Rights and Privileges; Voting; Liquidation. The Common Stock and Class A Stock shall be identical in all respects and shall have the same voting, liquidation and other rights, except as provided herein with respect to cash dividends. The Common Stock and Class A Stock shall vote as a single class on all matters and shall have unlimited voting rights. Upon dissolution, the holders of the Common Stock and Class A Stock shall be entitled to receive the net assets of the Corporation. Such net assets shall be divided among and paid to the holders on a pro-rata basis based on the number of shares of Common Stock and Class A Stock held by them. Each holder of record of the Redeemable Preference Shares shall have the rights and privileges, and shall be subject to the restrictions and limitations, set forth in Article V hereof.

4.4 Dividend Rights of Class A Stock. The shares of Class A Stock shall be entitled to a cash dividend, as and when a cash dividend is declared on the shares of Common Stock, in such amount as shall equal 8% of the sum of such dividend on the Class A Stock and such dividend on the Common Stock, provided that dividends shall be declared and paid in any calendar year on the Class A Stock only to the extent that Unappropriated Allocated Available Income (as defined below) in respect of prior calendar years (including Unappropriated Allocated Available Income for years prior to the merger of MPRR (as defined below) into UPRR (as defined below)) shall be sufficient to pay any required Additional Sinking Fund Payment (as defined below).

If any deficiency in the payment of cash dividends on the Class A Stock occurs because Unappropriated Allocated Available Income is insufficient to permit the requisite Additional Sinking Fund Payment, a special cash dividend shall be paid on the Class A Stock in the amount of such deficiency as and when Unappropriated Allocated Available Income which is subsequently earned in respect of a calendar year suffices to permit an Additional Sinking Fund Payment in the requisite amount related to such special cash dividend to be made in accordance with the preceding paragraph.

Any deficiency in the payment of cash dividends on the Class A Stock of MPRR which shall have accrued prior to the merger of MPRR into UPRR shall, from and after the effectiveness of such merger, be treated as a deficiency in the payment of cash dividends on the Corporation's Class A Stock and shall be payable to the holders of the Corporation's Class A Stock as a special cash dividend in accordance with the next preceding paragraph.

4.5 No Restrictions on Common Stock Dividends. Nothing in this Article IV shall limit or restrict the amount of dividends which the Corporation may pay on the Common Stock.

4.6 Subdivision or Combination. If the Corporation shall in any manner subdivide (by stock split, stock dividend or otherwise) or combine (by reverse stock split or otherwise) the outstanding shares of either the Common Stock or the Class A Stock, or in the event of any change in the capitalization of the Corporation as the result of a merger of the Corporation with or into another company or a similar transaction, the voting, dividend and liquidation rights of Class A Stock relative to Common Stock shall be appropriately adjusted so as to avoid any dilution in the aggregate voting, dividend or liquidation rights of the Class A Stock in relation to the Common Stock.

4.7 Definitions. The following definitions shall apply to this Article IV:

An "Additional Sinking Fund Payment" means the sinking fund payment required by the terms of the third paragraph of the Certificates and Section 3.03 of the Indenture and shall be an amount equal to 25% of the aggregate amount of cash dividends declared and paid on the Class A Stock.

The "Certificates" mean the Registered Certificates Representing a Charge on Income issued by MKT and dated as of January 1, 1958, as modified by the Order of the Interstate Commerce Commission served May 19, 1988, in Finance Docket No. 30800 (the "Order").

The "Debentures" mean the 5½% Subordinated Income Debentures due January 1, 2033, issued by MKT pursuant to the Indenture.

The "Indenture" means that certain Indenture, dated as of January 1, 1958, between MKT and The New York Trust Company, as modified by (i) a First Supplemental Indenture, dated as of July 1, 1960, between MKT and Chemical Bank New York Trust Company (as successor to The New York Trust Company), (ii) the Order and a Second Supplemental Indenture, dated as of August 12, 1988, between MPRR (as successor to MKT) and Chemical Bank (formerly called Chemical Bank New York Trust Company), (iii) a Third Supplemental Indenture, dated as of January 1, 1997, between UPRR (as successor to MPRR) and The Chase Manhattan Bank (formerly called Chemical Bank), and (iv) a Fourth Supplemental Indenture, dated as of February 1, 1998, between the Corporation (as successor to UPRR) and The Chase Manhattan Bank.

"MKT" means Missouri-Kansas-Texas Railroad Company, a Delaware corporation.

"MPRR" means Missouri Pacific Railroad Company, a Delaware corporation.

"Unappropriated Allocated Available Income" for a calendar year means the Allocated Available Income (as defined in the Indenture) remaining unappropriated under clause (6) of the provisions of the Certificates relating to the application of Allocated Available Income and paragraph (6) of Section 2.03 of the Indenture.

"UPRR" means Union Pacific Railroad Company, a Utah corporation.

## ARTICLE V – REDEEMABLE PREFERENCE SHARES

5.1. General. The Redeemable Preference Shares shall be issued in the manner, and shall have and be subject to the designations, privileges, powers, preferences and rights, and the qualifications, limitations, restrictions, and priorities, set forth herein:

(A) Definitions. In addition to the other terms defined in this Amended Certificate of Incorporation, the following definitions shall apply to this Section 5.1, unless the context otherwise requires:

"Agreement" means a written agreement between the Corporation and the United States of America represented by the Secretary acting through the Administrator, for the issuance and sale to the United States of the Shares to which reference is made.

"Secretary" means the U.S. Secretary of Transportation of the United States or his or her designee (by delegation of authority the Administrator of the Federal Railroad Administration, United States Department of Transportation, hereinafter the "Administrator", or his or her designee).

"Share" means a Redeemable Preference Share.

"SSW" means St. Louis Southwestern Railway Company, a Missouri Corporation.

"SSW Mergers" means the merger of SSW into SSW Merger Corp. and the merger of SSW Merger Corp. into UPRR, both of which were effective on September 30, 1997.

"SSW Redeemable Preference Shares" means those redeemable preference shares originally issued by SSW which contained terms substantially similar to the terms of the UPRR Redeemable Preference Shares and which were ultimately converted into UPRR Redeemable Preference Shares as a result of the SSW Mergers.

"UPRR Merger" means the merger of UPRR into the Corporation, which was effective on February 1, 1998.

"UPRR Redeemable Preference Shares" means those redeemable preference shares originally issued by UPRR which contained terms substantially similar to the terms of the Shares as authorized in Article V hereof and which were ultimately converted into Shares issued by the Corporation as a result of the UPRR Merger.

The terms "original issuance date", "issuance date" and words of like import mean the original issuance date of the SSW Redeemable Preference Shares of the applicable series, which were ultimately converted into UPRR Redeemable Preference Shares as a result of the SSW Mergers, which UPRR Redeemable Preference Shares were in turn ultimately converted into Shares as a result of the UPRR Merger.

(B) Other Preference Shares. All Shares of any series shall rank equally and be identical in all respects with all other series of Shares, except as otherwise expressly provided in this Amended Certificate of Incorporation.

(C) Par Value. Each Share shall have an initial par value of \$10,000.00. Upon payment of any mandatory redemption installment of any Shares, the par value of each such Share shall become an amount equal to the initial par value of such Share reduced by the amount of such redemption installment on such Share. The initial par value of any Share shall also be reduced by (1) the amount of any mandatory redemption installments paid by SSW with respect to any SSW Redeemable Preference Share that was ultimately converted into a UPRR Redeemable Preference Share as a result of the SSW Mergers, and which UPRR Redeemable Preference Share was in turn ultimately converted into such Share as a result of the UPRR Merger, and (2) the amount of any mandatory redemption installments paid by UPRR with respect to any UPRR Redeemable Preference Share that was ultimately converted into such Share as a result of the UPRR Merger.

(D) Seniority.

(1) The Shares shall be senior in right to all common stock and preferred stock of the Corporation, whenever issued, with respect to dividend and redemption payments, and in the case of liquidation or dissolution of the Corporation; but said Shares shall be subordinate, as to dividend and redemption payments thereon and in the case of liquidation or dissolution of the Corporation, to all of the Corporation's Senior Debt (as defined herein).

(2) As used herein, the term "Senior Debt" means principal and premium, if any, and accrued interest to the extent payable thereon, whether outstanding on the issue date of the Shares or created thereafter but prior to the time the Shares shall become a fixed interest debt obligation of the Corporation (pursuant to the Section providing for the issuance of each series of Shares hereunder or the Agreement) on all the following indebtedness of the Corporation: (a) for money borrowed by the Corporation, whether the same be evidenced by bonds, notes, equipment trust certificates or debentures or evidenced by a loan agreement or an indenture or similar instruments; or (b) for money borrowed by others and assumed or guaranteed, directly or indirectly, by the Corporation; or (c) constituting purchase money obligations or mortgage indebtedness for payment of which the Corporation is directly or contingently liable, or on which the Corporation customarily pays interest, including, but not limited to, purchase money bonds, notes, debentures or mortgages, conditional sale agreements, mortgages made or given or guaranteed by the Corporation as mortgagor or guarantor, and assumed or guaranteed mortgages upon property; or (d) under equipment lease obligations; or (e) to general creditors, including lessors, trade creditors and employees of the Corporation; and (f) if prior to the time the Shares shall become a fixed interest debt obligation of the Corporation, renewals, extensions and refundings of such indebtedness.

(E) Dividends. The Board of Directors shall have no discretion in the declaration and payment of dividends on the Shares. Each outstanding Share shall be entitled to mandatory dividend payments payable annually on the anniversary of the original issue thereof in accordance with the Payment Schedule in the Section providing for the issuance of each series of Shares hereunder; provided, however, that such dividend shall be payable only if and to the extent that (a) the Corporation has "Available Capital" (as defined herein); and (b) the Corporation is not insolvent

and the payment of such dividend would not render the Corporation insolvent. The Administrator shall be the sole determiner of whether conditions (a) and (b) above have been met. "Available Capital" means surplus or net profits or other capital legally available for the payment of dividends, in accordance with the GCL, reduced by any amount the payment of which the Administrator, in the Administrator's sole judgment, deems would impair the safe operation of the railroad properties of the Corporation or the maintenance of the usual standards of efficiency or economy of operation of such properties. The determinations and judgments of the Administrator provided for under clauses (a) and (b) of this paragraph shall be reached following consideration of such information with respect thereto as the Corporation may present to the Administrator not later than thirty (30) days prior to the date specified for payment of such dividend. If the conditions set forth in clauses (a) and (b) are met, either as to the entire amount of such dividend or any part thereof, such dividend (or the part thereof with respect to which such conditions are met) shall become an immediately due and payable debt obligation of the Corporation to the extent such dividend is payable. If any such dividend would not be payable (and is not fully paid) because of failure to meet the conditions set forth in clauses (a) or (b), the unpaid portion thereof shall cumulate until such conditions are met either as to the entire unpaid portion or any part thereof, at which time the Corporation shall pay such unpaid portion (or the part thereof with respect to which such conditions are met) to the extent so payable. If not so paid, such payable amount shall become an immediately due and payable debt obligation of the Corporation. Unless and until the cumulated and then due dividends are fully paid, the Corporation shall not make any distribution of assets, surplus, net profits or other capital (whether by dividends, redemptions or otherwise) to any other class of the Corporation's securities to which the Shares have priority as to dividends or redemption installments thereon or in the case of dissolution or liquidation. Nothing herein contained, however, gives any holder of Shares the right and privilege to participate in the net profits of the Corporation beyond the aforesaid fixed, preferential annual dividend. Notwithstanding the foregoing, the Corporation shall have the right at its option, to pay at any time part or all of any unpaid portion of a dividend payable or cumulating pursuant hereto, provided that the Corporation is not prohibited at such time from making such payment by the laws of the Corporation's state of incorporation.

(F) Redemption.

(1) Each outstanding Share shall be entitled to mandatory redemption installments payable annually on the anniversary date of the date of issuance thereof in accordance with the Payment Schedule in the Section providing for the issuance of each series of Shares hereunder, but not to exceed in the aggregate the initial par value of such Share. Upon payment of any mandatory redemption installment on any Share, the par value of such Share shall become an amount equal to the initial par value of such Share reduced by the amount of such redemption installment and all previously paid redemption installments on such Share (including redemption installments paid by SSW in respect of the SSW Redeemable Preference Shares and redemption installments paid by UPRR in respect of the UPRR Redeemable Preference Shares).

(2) The Board of Directors shall have no discretion in the declaration and payment of redemption installments on Shares. Except where prepaid in accordance with the terms and conditions set forth in the Section providing for the issuance of each series of Shares hereunder, each redemption installment shall be paid on its due date to the extent that (a) the Corporation has Available Assets (as defined herein), and (b) the Corporation is not insolvent and the payment of such redemption installment would not render it insolvent. The Administrator shall be the sole determiner of whether conditions (a) and (b) above have been met. "Available Assets" means assets of the Corporation legally available for the redemption of shares of capital stock in accordance with the GCL, reduced by any amount the payment of which the Administrator, in the Administrator's sole judgment, deems would impair the safe operation of the railroad properties of the Corporation or the maintenance of the usual standards of efficiency or economy of operation of such properties. The determinations and judgments of the Administrator provided for under clauses (a) and (b) of this subparagraph (2) shall be reached following consideration of such information with respect thereto as the Corporation may present to the Administrator not later than thirty (30) days prior to the date specified for payment of such redemption installment. If the conditions set forth in clauses (a) and (b) above are met, either as to the entire amount of such installment or any part thereof, such installment (or the part thereof with respect to which such conditions are met) shall become an immediately due and payable debt obligation of the Corporation to the extent such installment is payable. If any such redemption installment would not be payable (and is not fully paid) because of a failure to meet the conditions set forth in clauses (a) or (b) hereof, the unpaid portion thereof shall cumulate until such conditions are met as to such unpaid portion to the extent thereof, at which time the Corporation shall pay such unpaid portion (or the part thereof with respect to which such conditions are met) to the extent so payable. If not so paid, such payable amount shall become an immediately due and payable debt obligation of the Corporation. Unless and until the cumulated and then due redemption installments are fully paid, the Corporation shall not make (i) any distribution of assets (whether by dividend, redemption or otherwise) to any other class of the Corporation's securities to which the Shares have priority as to dividends or redemption installments thereon, or in the case of liquidation or dissolution; or (ii) any voluntary distribution of assets (whether by dividend, redemption, or otherwise) to any of the Corporation's securities which have priority over the Shares as to dividend or redemption installment thereon, without the Administrator's prior written consent. Nothing herein contained, however, gives any holder of Shares the right and privilege in the case of liquidation or dissolution to participate in the assets of the Corporation beyond the aggregate unredeemed par value of, and unpaid cumulated and unpaid accrued dividends (contingent or fixed principal and vested and/or accrued interest, as the case may be) on the Shares which have been issued to such holder or the outstanding part thereof. Notwithstanding the foregoing, the Corporation shall have the right at its option, to pay at any time part or all of any unpaid portion of a redemption payment payable or cumulating pursuant hereto, provided that the Corporation is not prohibited at such time from making such payment by the laws of the state of its incorporation.

(3) Upon payment of any mandatory redemption installment on any Share, the par value of each such Share shall be reduced by the amount of such redemption

installment. If at any time Available Assets are insufficient to pay the full amount of the redemption installments due on Shares having the same date of issuance, such Available Assets shall be applied pro rata to reduce the par value of such Shares. Inclusion by the stockholders of this subparagraph (3) in this Amended Certificate of Incorporation of the Corporation shall constitute the approval by the stockholders, including the holder or holders of the Shares, of all further amendments to said Certificate necessary to reduce the par value of the Shares as contemplated hereunder, and no further meeting of the stockholders, including the holder or holders of the Shares, shall be required to effect such amendments. Upon the reduction of the par value of the Shares hereunder, the Corporation shall cause a Certificate of Amendment to be filed in accordance with state law.

(4) Shares redeemed pursuant to subparagraphs (1) and (2) of this Paragraph (F) shall be surrendered to the Corporation. Notwithstanding that any certificate for Shares shall not have been surrendered to the Corporation, the rights of the holders of such Shares shall cease and such Shares shall be deemed no longer outstanding, if:

(a) in the case of optional redemption pursuant to the Section providing for the issuance of each series of Shares hereunder, notice shall have been given and, on or before the redemption date specified in such notice, all funds necessary for such redemption shall have been deposited in trust with the bank or trust corporation specified in the notice; or

(b) in the case of mandatory redemption pursuant to subparagraphs (1) and (3) hereof, payment shall have been made of the outstanding par value of any Shares and any unpaid cumulated dividends and unpaid accrued dividends (in excess of such unpaid cumulated dividends) thereof, or if the address of the holder of any such Shares is unknown, all funds necessary for such payment shall have been deposited in trust with a national bank or trust company for the benefit of such holder.

(5) Where dividends and redemption installments are to be paid from coincidentally Available Capital and Available Assets, dividends and any cumulations thereof are to be paid first and redemption installments and any cumulations thereof are to be paid second. In no event shall there be a full redemption of any Shares without full payment of all cumulated and then due dividends thereon.

(G) Voting Rights.

(1) Other than as set forth in this Paragraph (G), or as required by law, the Shares shall not have any voting rights in the conduct of the business of the Corporation, and such Shares shall not have any voting rights on any Transaction (as defined in Paragraph (I) hereof) consummated in accordance with the provisions of said Paragraph (I).



(2) Whenever any dividend or redemption payment which is due on the Shares (in accordance with the payment Schedule in the Section providing for issuance of each series of Shares hereunder) shall have remained unpaid for a period of four (4) months, whether or not payable as provided herein, the holder or holders of the Shares shall have the exclusive right to elect or appoint, in the manner hereinafter provided, two persons to serve as members of the Board of Directors of the Corporation, in which event the number of directors constituting the Board of Directors shall be increased by two to reflect such newly created directorships. Whenever the right of the holder or holders of the Shares to elect or appoint two members of the Board of Directors shall have vested, it shall be exercised initially in the most expeditious manner, either by written consent of such holder or holders as provided or permitted by law, or at an annual meeting of the stockholders, or at a special meeting of stockholders called in accordance with the By-Laws, and thereafter either by such written consent or at such annual or special meeting. The term of office of the directors so elected or appointed by the holder or holders of the Shares shall continue until the next annual meeting or until their successors are elected or appointed, provided that upon payment by the Corporation of all dividend and redemption installments which are due, such terms shall forthwith terminate. Any vacancies in the two specially created directorships prior to such termination may be filled by written consent of the holder or holders of the Shares. Notwithstanding the foregoing, in no event shall such holder or holders be entitled at any time to elect or appoint more than an aggregate of two members of the Corporation's Board of Directors.

(H) Liquidation, Dissolution or Winding Up.

(1) In the event of any voluntary liquidation, dissolution or winding up of the Corporation, but only in the event that the Shares shall not have become a debt obligation of the Corporation pursuant to the Agreement, the holders of Shares shall be entitled to receive, after payment in full of Senior Debt, the outstanding par value plus any unpaid cumulated and unpaid accrued dividends (in excess of unpaid cumulated dividends) thereon.

(2) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the Corporation, but only in the event that the Shares shall have become a debt obligation of the Corporation pursuant to the Agreement, the holders of Shares shall be entitled to receive after payment in full of Senior Debt, the unpaid principal thereof and all unpaid interest thereon due to the date of payment whether accrued, contingent, cumulated or vested or whether previously denoted par value and dividends.

(3) If the distributable assets are insufficient to make payment in full in accordance with the foregoing subparagraphs (1) and (2), such assets shall be distributed pro rata to the holders of the Shares according to the outstanding par value of such Shares held by each.

(I) Merger or Consolidation. In the case of any consolidation of the Corporation with, or merger of the Corporation with or into, one or more corporations (other than a consolidation or merger in which the Corporation is the continuing corporation and which does not result in any

reclassification or change in securities of the Corporation), or in case of any sale or conveyance to another corporation of the property of the Corporation as an entirety or substantially as an entirety, or in the case of a reclassification or change of any outstanding equity security of the Corporation (other than a change in par value, or from par value to no par value, or as a result of a subdivision or combination) (any and all such events being herein called a "Transaction"), the Corporation or such successor or purchasing corporation shall give to the holders of the Shares written notice thereof at least twenty (20) days prior to the effective date of the Transaction and shall have its authorized representative certify to the holders that the holders of such Shares then outstanding shall have the same rights and privileges upon the effectiveness of such Transaction as the holders had immediately prior thereto. Nothing herein, however, waives any of the holders' rights available under the laws of the Corporation's state of incorporation.

(J) Agreement.

(1) Shares shall be subject to and entitled to the benefits of these Articles and an Agreement. An Agreement gives the holders of a majority of aggregate par value then outstanding of the Shares the rights, upon the happening of certain events of default set forth in the Agreement, to declare the Shares to be a fixed interest debt obligation of the Corporation and/or to declare an acceleration of redemption payments (or principal payments, as the case may be) to not less than 15 annual payments (including payments already made), with such payments (or further payments) to begin 10 days after declaration thereof (except, if scheduled redemptions have already begun, to continue with the next redemption installment) but not earlier than the 6th anniversary date of the date of the original issuance of Shares and/or to declare an increase in the dividend rate (or interest rate, as the case may be) on the Shares in accordance with the Section providing for the issuance of each series of Shares. Except as otherwise provided, commencing upon each such declaration and until the next declaration each subsequent payment shall be equal in total redemption and dividend (principal and interest) amount. In the event of certain other events of default, including the Corporation's discontinuance of business, making a general assignment for the benefit of creditors, and filing a petition in bankruptcy, the Shares shall automatically become a fixed interest debt obligation of the Corporation and the redemption installments (or principal payments, as the case may be) set forth in the Payment Schedule in the Section providing for the issuance of each series of Shares hereunder shall automatically accelerate to a maximum of 15 annual payments (including payments already made), each subsequent payment to be equal in total principal and interest amount, with such payments (or further payments) to begin immediately upon the occurrence of such event of default (except, if scheduled redemptions have already begun, to continue with the next redemption installment) but not earlier than the 6th anniversary date of the date of original issuance of the Shares, and the dividend rate (or interest rate, as the case may be) on the Shares shall automatically be to the highest permissible rate raised in accordance with the Section providing for the issuance of each series of Shares.

Notwithstanding the provisions of this subparagraph, the Shares may become a fixed interest debt obligation only if, when and to the extent they may become a debt obligation without

violating any provisions of the laws of the Corporation's state of incorporation. The holders of the Shares and the Corporation agree that in the event of any litigation concerning the question of whether the provisions of the laws of the Corporation's state of incorporation must be met in order that the Shares become a fixed interest debt obligation of the Corporation pursuant to an Agreement, no evidence other than the Agreement and the Shares as to the intent of the parties to the Agreement on such question shall be introduced by the parties to the Agreement. Except as otherwise provided in this Paragraph (J) or an Agreement, upon the Shares becoming a fixed interest debt obligation hereunder, the Payment Schedule in the Section providing for the issuance of each series of Shares hereunder shall represent fixed mandatory interest (at the dividend rate set forth in such Section hereunder) and principal payments, and any unpaid cumulated dividend and/or redemption installments (and contingent interest and/or principal payments, as the case may be), shall respectively become immediately due and payable accrued interest and principal (and any accrued dividends or vested right to interest shall become immediately accrued interest payable in accordance with the Payment Schedule in the Section providing for the issuance of each series of Shares hereunder except as otherwise provided in this Paragraph (J) or the Agreement) and such fixed mandatory interest payments and fixed mandatory principal payments shall be, when due, an absolute and unconditional obligation of the Corporation and shall not be governed by statutory limitations regarding distributions in respect of equity securities, nor by the provisions of Paragraphs (E) and (F) hereof.

(2) If the Corporation shall classify the Shares as debt on any balance sheet furnished to any class of its stockholders or creditors, or otherwise issued publicly, such Shares shall automatically become a subordinated debt obligation of the Corporation ("Subordinated Debt") as of the date of such balance sheet, and dividend and redemption installments thereon shall become, respectively, contingent interest and principal payments, provided such Shares could lawfully become Subordinated Debt. In such event, contingent interest will be payable at the dividend rate set forth in the Section providing for the issuance of each series of Shares hereunder and in accordance with the Payment Schedule in such Section hereunder (except as otherwise provided in this Paragraph (J) or the Agreement); provided, however, that the Corporation's obligation to pay contingent interest shall be subject to the conditions set forth in clauses (a) and (b) of Paragraph (E). Contingent principal payments will be payable in accordance with the provisions of Paragraph (F) hereof (except as otherwise provided in this Paragraph (J) or the Agreement); provided, however, that the Corporation's obligation to pay contingent principal payments shall be subject to the conditions set forth in clauses (a) and (b) of subparagraph (2) of Paragraph (F). Such Shares which have become Subordinated Debt will be subordinate to Senior Debt of the Corporation. The classification of the Shares as Debt and such Shares becoming Subordinated Debt in accordance with this subparagraph shall not constitute an event of default under the Agreement, but if an event of default shall have occurred before or shall occur after such Shares have become Subordinated Debt, such Subordinated Debt may become fixed interest debt as that term is used in the Agreement when Shares directly become fixed interest debt.

(K) No Waiver. The failure of any holder of Shares to exercise any rights granted to it hereunder or under the share certificate shall not constitute a waiver of such rights or of any other rights. Failure by any holder of Shares to exercise any rights granted hereunder or under the share certificate, in the event of non-payment of any required payment when due, shall not be deemed a waiver of such non-payment or of further non-payments by the Corporation. The remedies granted to the holders of Shares hereunder or under the share certificate shall be deemed cumulative and not exclusive.

(L) Certificates. The Shares are issued subject to the following conditions and each certificate for such Shares shall be marked or stamped substantially as follows:

"The preferences and other rights, terms and conditions of the Redeemable Preference Shares are as stated in the Corporation's Amended Certificate of Incorporation. A written description of such preferences and other rights, terms and conditions will be supplied upon request to each holder by the Corporation. This Certificate is issued subject to the provisions limiting transfer or sale of the Shares of the Corporation contained in the Amended Certificate of Incorporation, and neither this Certificate nor any of the Shares represented by it may be sold, transferred or assigned, except in accordance with the provisions of the Amended Certificate of Incorporation. A full statement of said limitations upon transfer or sale will be furnished upon request and without charge to any stockholder.

The Shares represented by this Certificate have not been registered under the Securities Act of 1933, as amended, or any other state or Federal laws, including the provisions of Section 11301 of Title 49 of the United States Code (49 U.S.C. 11301). Such shares have been acquired for investment and all holders thereof at any time hereby acknowledge and agree that such shares may not be offered for sale, sold, delivered after sale, transferred, pledged or hypothecated, nor will any assignee or endorsee hereof be recognized as an owner hereof by the issuer for any purpose, unless a Registration Statement under the Securities Act of 1933 as amended with respect to such Shares shall then be in effect and the requirements of other applicable state and Federal laws, rules and regulations, including Section 11301 of Title 49 of the United States Code, shall have been complied with or unless the availability of an exemption from registration shall be established to the satisfaction of outside counsel for the Corporation, whose fees shall be paid by the Corporation. In determining the availability of such an exemption such counsel shall take into account the Corporation's obligation hereunder to make available adequate current information concerning the Corporation. The Corporation shall be under no obligation to pay for any registration of such Shares under applicable state and Federal laws, rules and regulations, or otherwise to pay (except for such outside counsel fees) for any steps which might be necessary to accomplish a transfer of such Shares under such laws. Upon the request of any holder of such Shares or part

thereof, the Corporation will make available adequate current information concerning the Corporation to enable such holder to sell such Shares or part thereof (whether or not a sale is then contemplated) in compliance with such Federal and state laws, rules and regulations to the extent such information shall not already be publicly available. In addition, the United States of America (and no other holder) hereby acknowledges and agrees that no such Shares shall be transferred or conveyed except upon twenty (20) days' prior written notice to the Corporation of the terms and conditions of such proposed transfer or conveyance and that, for twenty days after receipt of such notice, the Corporation shall have the right of first refusal to purchase any such Shares to be transferred or conveyed."

(M) Alteration of Rights. So long as any Shares are outstanding, the Corporation shall not without the written consent or affirmative vote of the holders of at least 2/3rds of such Shares, amend, alter or repeal the powers, preferences or special rights of such Shares so as to affect them adversely.

5.2 Series A. The relative rights, preferences, limitations and restrictions of the Redeemable Preference Shares, Series A (the "Series A Shares") which are not otherwise provided for in Section 5.1 hereunder are as follows (terms not otherwise defined under this Section 5.2 shall have the meanings given them in Section 5.1 hereunder):

(A) Dividends.

(1) The holders of Series A Shares shall be entitled to receive fixed preferential annual dividends in cash at the rate of 4.2% on the then outstanding par value thereof payable annually on the anniversary date of the date of issuance thereof commencing on the 11th anniversary in accordance with the payment schedule in Paragraph (C) hereunder (the "Payment Schedule"); provided that for the purpose of this subparagraph "the then outstanding par value" shall be determined for each year as if all scheduled mandatory redemption installments had been paid, whether or not such installments have in fact been paid.

(2) Except in the case of optional redemption of Series A Shares by the Corporation according to the terms prescribed, each Series A Share shall accrue a dividend of 50% of its initial par value commencing on the 10th anniversary date of its original issuance, which accrual shall be payable in accordance with the provisions hereof. If, prior to or upon any liquidation, dissolution or winding up of the Corporation, (a) such Series A Share has become a Subordinated Debt obligation of the Corporation (pursuant to this Amended Certificate of Incorporation or the Agreement), such dividend accrual of 50% or the remaining unpaid portion thereof shall become a vested right to interest to the extent of such unpaid portion, but shall be payable only in accordance with such Agreement and this Amended Certificate of Incorporation, or (b) such Series A Share shall become a fixed interest debt obligation of the Corporation (pursuant to this Amended Certificate of Incorporation or the Agreement), such dividend accrual of 50% or

the remaining unpaid portion thereof, or such vested right to interest or the remaining unpaid portion thereof, shall become an immediate interest accrual to the extent of such unpaid portion, but shall be payable only in accordance with the Agreement and this Amended Certificate of Incorporation.

(3) Except as otherwise provided herein or in the Agreement the total amount of dividends payable on each Series A Share shall not exceed 50% of the initial par value thereof.

(B) Redemption.

(1) Prior to the 11th anniversary date of the date of issuance of any Series A Shares, the Corporation may at its option redeem any number of such Shares at any time at a redemption price of the initial par value of such Shares plus a per Share premium of \$203.00 (or such other amount as correlates to the then determined yield to maturity multiplied by 100) multiplied by the number of years (including fractional years as whole years) such Shares were outstanding. If less than all of the outstanding Series A Shares are to be redeemed, the Shares to be redeemed shall be determined by lot or in any other fair and impartial manner normally used to select Shares for redemption or as hereafter provided. If redemption is to be by lot each certificate representing more than one Share shall be assigned a number for each Share represented by such certificate.

(2) On or after the 11th anniversary date of the date of issuance of any Series A Shares, the Corporation may at any time redeem Series A Shares but no less than all such Shares having that same date of issuance, at a redemption price of the then outstanding par value of such Shares and all unpaid cumulated dividends thereon, plus a per Share premium of \$203.00 (or such other amount as correlates to the then determined yield to maturity multiplied by 100) multiplied by the number of years (including fractional years as whole years) such Shares were outstanding. If such Shares shall have become contingent or fixed debt, as the case may be, prepayment shall be in an amount computed hereby as if the Shares had not become such.

(3) There shall be credited only against the premium payable on any optionally redeemed Series A Shares (but not against the par value or dividends thereof) the aggregate amount of dividends previously payable and then paid on such optionally redeemed Series A Shares.

(4) Notice of optional redemption of Series A Shares shall be mailed, addressed to the holders of record of the Shares to be redeemed at their respective addresses as they shall appear on the stock books of the Corporation at least 10 days prior to the date fixed for redemption.

(C) Payment Schedule for Series A Shares.

<u>Anniversary Date of Issuance</u>	<u>Dividends Per Share</u>	<u>Redemption Installments Per Share</u>
1980.....	-	-
1981.....	-	-
1982.....	-	-
1983.....	-	-
1984.....	-	-
1985.....	-	-
1986.....	-	-
1987.....	-	-
1988.....	-	-
1989.....	-	-
1990.....	-	-
1991.....	\$421.43	\$328.57
1992.....	406.53	343.47
1993.....	393.20	356.80
1994.....	378.18	371.82
1995.....	362.53	387.47
1996.....	347.30	402.70
1997.....	329.23	420.72
1998.....	311.52	438.48
1999.....	293.06	456.94
2000.....	273.82	476.18
2001.....	253.77	496.23
2002.....	232.87	517.13
2003.....	211.09	538.91
2004.....	188.39	561.61
2005.....	164.73	585.27
2006.....	140.08	609.92
2007.....	114.38	635.62
2008.....	87.60	662.40
2009.....	59.69	690.31
2010.....	30.60	719.40

(D) Agreement. Series A Shares shall be subject to and entitled to the benefits of this Amended Certificate of Incorporation and an Agreement. The Agreement gives the holders of a majority of aggregate par value then outstanding of the Series A Shares the rights, upon the happening of certain events of default set forth in the Agreement, to declare the Series A Shares to

be a fixed interest debt obligation of the Corporation and/or to declare an acceleration of redemption payments (or principal payments, as the case may be) to not less than 15 annual payments (including payments already made), with such payments (or further payments) to begin 10 days after declaration thereof (except, if scheduled redemptions have already begun, to continue with the next redemption installment) but not earlier than the 6th anniversary date of the date of the original issuance of Series A Shares and/or to declare an increase in the dividend rate (or interest rate, as the case may be) in the Series A Shares so as to reflect a yield to maturity on the Series A Shares of 2.03% from the date of original issuance to the declaration date and up to 6.68% from the declaration date, which yields shall return to the holder not less than 150% of the aggregate par value of the Shares (but with accrual and payment thereof to commence not earlier than the 10th anniversary date of the date of original issuance of the Series A Shares). Except as otherwise provided, commencing upon each such declaration and until the next declaration each subsequent payment shall be equal in total redemption and dividend (principal and interest) amount. In the event of certain other events of default, including the Corporation's discontinuance of business, making a general assignment for the benefit of creditors, and filing a petition in bankruptcy, the Series A Shares shall automatically become a fixed interest debt obligation of the Corporation and the redemption installments (or principal payments, as the case may be) set forth in the Payment Schedule in this Section shall automatically accelerate to a maximum of 15 annual payments (including payments already made), each subsequent payment to be equal in total principal and interest amount, with such payments (or further payments) to begin immediately upon the occurrence of such event of default (except, if scheduled redemptions have already begun, to continue with the next redemption installment) but not earlier than the 6th anniversary date of the date of original issuance of the Series A Shares, and the dividend rate (or interest rate, as the case may be) on the Series A Shares shall automatically be raised so as to reflect a yield to maturity on the Series A Shares of 2.03% from the date of original issuance to the date of such event of default and 6.68% from the date of such event of default, which yields shall return to the holder not less than 150% of the aggregate par value of the Shares (but with accrual and payment thereof to commence not earlier than the 10th anniversary date of the date of original issuance of the Series A Shares).

Notwithstanding the provisions of this subparagraph, the Series A Shares may become a fixed interest debt obligation only if, when and to the extent they may become a debt obligation without violating any provisions of the laws of the Corporation's state of incorporation. The holders of the Series A Shares and the Corporation agree that in the event of any litigation concerning the question of whether the provisions of the laws of the Corporation's state of incorporation must be met in order that the Series A Shares become a fixed interest debt obligation of the Corporation pursuant to this Amended Certificate of Incorporation and the Agreement, no evidence other than the Agreement and the Series A Shares as to the intent of the parties to the Agreement on such question shall be introduced by the parties to the Agreement. Except as otherwise provided in this Paragraph (D) or the Agreement, upon the Series A Shares becoming a fixed interest debt obligation hereunder, the Payment Schedule in this Section shall represent fixed mandatory interest (at the dividend rate set forth in this Section) and principal payments, and any unpaid cumulated dividend and/or redemption installments (and contingent interest and/or principal



payments, as the case may be), shall respectively become immediately due and payable accrued interest and principal (and any accrued dividends or vested right to interest shall become immediately accrued interest payable in accordance with the Payment Schedule in this Section except as otherwise provided in this Paragraph (D) or the Agreement), and such fixed mandatory interest payments and fixed mandatory principal payments shall be, when due, an absolute and unconditional obligation of the Corporation and shall not be governed by statutory limitations regarding distributions in respect of equity securities, nor by the provisions of Paragraphs (E) and (F) of Section 5.1 hereof.

5.3 Series B. Sections 5.1 and 5.2 herein shall apply to the Redeemable Preference Shares issued to finance the rehabilitation of certain parts of Armourdale Yard, Kansas City, Kansas, only if a court of competent jurisdiction by a final, binding judgment determines that such Redeemable Preference Shares shall be equity instruments in which case they shall be denoted for purposes hereof as "Series B Shares."

The relative rights, preferences, limitations and restrictions of the Series B Shares which are not otherwise provided for in Section 5.1 hereunder are as follows (terms not otherwise defined under this Section 5.3 shall have the meanings given them in Section 5.1 hereunder):

(A) Dividends.

(1) The holders of Series B Shares shall be entitled to receive fixed preferential annual dividends in cash at the rate of 28.454524% on the then outstanding par value thereof payable annually on the anniversary date of the date of issuance commencing upon the date of issuance in accordance with the payment schedule in Paragraph (C) hereunder (the "Payment Schedule"); provided that for the purpose of this subparagraph "the then outstanding par value" shall be determined for each year as if all scheduled mandatory redemption installments had been paid, whether or not such installments have in fact been paid.

(2) Except in the case of optional redemption of Series B Shares by the Corporation according to the terms prescribed, each Series B Share shall accrue a dividend commencing on the 10th anniversary date of its original issuance, which accrual shall be payable in accordance with the provisions hereof. If, prior to or upon any liquidation, dissolution or winding up of the Corporation, (a) such Series B Share has become a Subordinate Debt obligation of the Corporation (pursuant to this Amended Certificate of Incorporation or the Agreement), such dividend accrual thereof shall become a vested right to interest to the extent of such unpaid portion, but shall be payable only in accordance with such Agreement and this Amended Certificate of Incorporation, or (b) such Series B Share shall become a fixed interest debt obligation of the Corporation (pursuant to this Amended Certificate of Incorporation or the Agreement), such dividend accrual or the remaining unpaid portion thereof, or such vested right to interest or the remaining unpaid portion thereof, shall become an immediate interest accrual to the extent of such

unpaid portion, but shall be payable only in accordance with the Agreement and this Amended Certificate of Incorporation.

(B) Redemption.

(1) Prior to the 6th anniversary date of the date of issuance of any Series B Share, the Corporation may, at its option, redeem or cause to be redeemed any number of such Series B Shares at any time, but only at a redemption price of the then outstanding par value of each such Series B Share and all unpaid, accrued dividends thereon to the date of such redemption, plus a per Series B Share premium of four hundred ninety dollars (\$490) for each year (including fractional years as whole years) such Series B Shares were outstanding. If less than all of the outstanding Series B Shares are to be redeemed, the Series B Shares to be redeemed shall be determined by lot or in any other fair and impartial manner.

(2) After the 6th anniversary date of the date of issuance of any Series B Share, the Corporation may, at its option, redeem or cause to be redeemed at any time only all such Series B Shares having the same date of issuance, and only at a redemption price equal to the then outstanding par value of each such Series B Share and all unpaid, accrued dividends thereon to the date of such redemption, plus a per Series B Share premium of four hundred ninety (\$490) for each year (including fractional years as whole years) such Series B Shares were outstanding.

(3) There shall be credited only against the premium payable on any optionally redeemed Series B Share (but not against the par value or dividends thereof), the aggregate amount of dividends paid on such optionally redeemed Series B Share.

(4) Notice of optional redemption of any Series B Share shall be mailed and addressed to the Administrator in accordance with the manner specified in Section 8.06 of the Series B Share Agreement.

(C) Payment Schedule for Series B Shares.

<u>Period</u>	<u>Par Value</u>	<u>Dividends</u>	<u>Total Payment</u>
1	0	0	0
2	0	0	0
3	0	0	0
4	0	0	0
5	0	0	0
6	\$1,215.50	0	\$1,215.50
7	1,215.50	0	1,215.50
8	1,215.50	0	1,215.50
9	1,215.50	0	1,215.50
10	1,215.50	0	1,215.50

11	99.37	\$1,116.13	1,215.50
12	127.65	1,087.85	1,215.50
13	163.97	1,051.53	1,215.50
14	210.63	1,004.87	1,215.50
15	270.56	944.94	1,215.50
16	347.55	867.95	1,215.50
17	446.44	769.06	1,215.50
18	573.47	642.03	1,215.50
19	736.65	478.85	1,215.50
20	<u>946.21</u>	<u>269.29</u>	<u>1,215.50</u>
	\$10,000.00	\$8,232.50	\$18,232.50

(D) Agreement. Series B Shares shall be subject to, and entitled to the benefits of an Agreement and this Amended Certificate of Incorporation. The holders of a majority of aggregate par value outstanding of the Series B Shares may upon the happening of certain events of default as set forth in the Agreement declare the Series B Shares to be a fixed interest debt obligation of the Corporation and/or declare an increase in the dividend rate (or interest rate, as the case may be) on the Series B Shares so as to reflect a yield to maturity on the Series B Shares of 4.90% from the date of original issuance to the declaration date and up to 8.72% from the declaration date (but with accrual and payment thereof to commence not earlier than the 10th anniversary date of the date of original issuance of the Series B Shares). Except as otherwise provided, commencing upon each such declaration and until the next declaration each subsequent payment shall be equal in total redemption and dividend (principal and interest) amount. In the event of certain other events of default, including the Corporation's discontinuance of business, making a general assignment for the benefit of creditors, and filing a petition in bankruptcy, the Series B Shares shall automatically become a fixed interest debt obligation of the Corporation and the dividend rate (or interest rate, as the case may be) on the Series B Shares shall automatically be raised so as to reflect as yield to maturity on the Series B Shares of 4.90% from the date of original issuance to the date of such event of default and 8.72% from the date of such event of default (but with accrual and payment thereof to commence not earlier than the 10th anniversary date of the date of original issuance of the Series B Shares).

Notwithstanding the provisions of this subparagraph, the Series B Shares may become a fixed interest debt obligation only if, when and to the extent they may become a debt obligation without violating any provisions of the laws of the Corporation's state of incorporation. The holders of the Series B Shares and the Corporation agree that in the event of any litigation concerning the question of whether the provisions of the laws of the Corporation's state of incorporation must be met in order that the Series B Shares become a fixed interest debt obligation of the Corporation pursuant to this Amended Certificate of Incorporation and the Agreement, no evidence other than the Agreement and the Series B Shares as to the intent of the parties to the Agreement on such question shall be introduced by the parties to the Agreement. Except as otherwise provided in this Paragraph (D) or the Agreement, upon the Series B Shares becoming a

fixed interest debt obligation hereunder, the Payment Schedule in this Section shall represent fixed mandatory interest (at the dividend rate set forth in this Section) and principal payments, and any unpaid cumulated dividend and/or redemption installments (and contingent interest and/or principal payments, as the case may be), shall respectively become immediately due and payable accrued interest and principal (and any accrued dividends or vested right to interest shall become immediately accrued interest payable in accordance with the Payment Schedule in this Section except as otherwise provided in this Paragraph (D) or the Agreement), and such fixed mandatory interest payments and fixed mandatory principal payments shall be, when due, an absolute and unconditional obligation of the Corporation and shall not be governed by statutory limitations regarding distributions in respect of equity securities, nor by the provisions of Paragraphs (E) and (F) of Section 5.1 hereof.

## ARTICLE VI – MANAGEMENT PROVISIONS

The following provisions are inserted for the management of the business and the conduct of the affairs of the Corporation, and for further definition, limitation and regulation of the powers of the Corporation and its directors and stockholders:

6.1 By-Laws. The directors of the corporation shall have concurrent power with the stockholders to adopt, alter, amend, change, add to or repeal the By-laws of the Corporation.

6.2 Limitation of Liability of Directors. To the fullest extent permitted by the GCL or any other applicable law as now in effect or as may hereafter be amended, a director of the Corporation shall not be liable to the Corporation or its shareholders for monetary damages for breach of fiduciary duty as a director. No amendment to or repeal of this Article VI shall apply to or have any effect on the liability or alleged liability of any director of the Corporation for or with respect to any action or failure to act by such director occurring prior to such amendment or repeal.

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## **REMS FileNet Cover Sheet**

<b>AUDIT NUMBER</b>	255851
<b>FOLDER NUMBER</b>	0263193
<b>CITY</b>	COLUMBUS
<b>STATE</b>	KS
<b>PARTY NAME</b>	BURLINGTON NORTHERN RAILROAD COMPAN
<b>PRIMARY PURPOSE</b>	Sale of RR Line to Another RR
<b>EFF. DATE</b>	8/1/1989
<b>MP START</b>	419.9
<b>MP END</b>	434.16
<b>PRIMARY CIRC7</b>	LL419
<b>DESCRIPTION</b>	Sale of Railroad Lines
<b>BOX NUMBER</b>	0
<b>BATCH</b>	00

REC'D. LAW DEPT.

AUG 31 1989

FORT WORTH

AUDIT 255851CONTRACT FOR SALE OF RAILROAD LINES

This Contract, made and entered into as of the 1st day of August, 1989, by and between MISSOURI-KANSAS-TEXAS RAILROAD COMPANY ("MKT") and the BURLINGTON NORTHERN RAILROAD COMPANY ("BN");

## W I T N E S S E T H:

For and in consideration of the purchase price of TWO HUNDRED EIGHTY-SEVEN THOUSAND FIVE HUNDRED AND TEN AND NO/100THS DOLLARS (\$287,510.00), to be paid as hereinafter set out, and the additional covenants and conditions herein contained to be performed and observed, MKT agrees to sell and BN agrees to purchase the following described properties (hereinafter the "Properties"):

The line of MKT's railroad described more particularly in Exhibit A attached hereto, consisting generally of all properties and rights of MKT from milepost 419.19 at Columbus, Kansas, to milepost 434.16 at Horn, Missouri.

1. General Intent.

It is the intent of this Contract that, in exchange for a total consideration of TWO HUNDRED EIGHTY-SEVEN THOUSAND FIVE HUNDRED TEN AND NO/100THS DOLLARS (\$287,510.00), BN agrees to purchase the Properties free and clear of all liens, except liens for special assessments levied for improvements after the date hereof and liens with respect to claims or obligations incurred by BN. From and after the date of this Agreement of Sale, until same is either consummated or terminated, MKT shall not, without the written consent of BN, transfer any right, title or interest in the Properties to any person other than BN.

2. Title in MKT.

A. MKT shall convey, transfer, and assign to BN by Quitclaim Deed, in substantially the same form as that attached hereto as Exhibit B, all of MKT's right, title, interest and estate of every kind, quality and nature which MKT possesses in the Properties and which, without limiting the foregoing, shall in all events be sufficient to permit the continued ownership, construction, maintenance, use and operation of the Properties as a railway system between the termini described in Exhibit A. The Properties and said deed, transfers, and/or assignments shall include all rights-of-way, station grounds and other real property associated therewith, whether owned in fee simple, easement, franchise or otherwise; and also any stations, buildings and

yards owned, leased, claimed or used by MKT on said real estate, and all other railroad facilities which are appurtenant to said real estate, including, but not limited to, signals, interlocking devices and plants, communications facilities, and any other appurtenances necessary or useful to the operation of such line of railroad. BN shall accept the Properties at Closing in an "as is" condition.

MKT shall convey, transfer and assign all of MKT's right, title and interest in and to any and all franchises, privileges, easements, licenses, and permits conferred, given, owned, acquired, appropriated or used for any purpose connected with the operation, use and enjoyment of the Properties; all fixtures and appurtenances, including all attached spur, industry, interchange or similar tracks, stations, station platforms and terminal facilities, if any, (but excluding any equipment, materials or inventory stored on, but not attached to the Properties except that which is unique to the Properties and intended solely for the continued maintenance and operation of the Properties as provided in Paragraph 3); and all contracts relating to the Properties including, without limitation, leases, licenses, permits and easements and any other contracts or agreements whatsoever to which MKT is now a party or shall be a party on the Closing Date and in effect with respect to the Properties, but excluding any contract which under its present terms may expire prior to the Closing Date.



B. Except for liens and encumbrances incurred by BN, the Properties at the time of conveyance shall be free and clear of all liens, security interest and encumbrances whatsoever, and any other liens, encumbrances, obligations or mortgages in favor of any other governmental agency, Federal, state or local, and any other mortgages. The Properties shall also be free and clear of all tax liens, including but not limited to Federal tax liens and liens for state and local taxes, except taxes constituting a lien but not yet due and payable.

3. Removal of Personal Property.

The Properties do not include inventory, equipment, tools, machinery, locomotives, cars, nonrail work equipment, or other uninstalled personal property of the MKT of whatsoever nature and wheresoever located. MKT shall promptly remove all such personal property of MKT following the Closing.

4. Delivery Date.

All conveyances shall be duly executed and delivered to BN on the Closing Date specified in Section 9 (the "Closing" or "Closing Date").

5. Payment of Purchase Price.

The purchase price of TWO HUNDRED EIGHTY-SEVEN THOUSAND FIVE HUNDRED TEN AND NO/100THS DOLLARS (\$287,510.00) shall be paid by BN to MKT at Closing in funds immediately available to MKT.

6. Evidence of Title.

A. Upon request of BN prior to the Closing Date, MKT shall make available for inspection by BN all deeds or other conveyances and instruments evidencing MKT's right, title and interest in the Properties, including all maps, profiles, and statement of located line and other like instruments; all correspondence or acquisition files and the valuation records (original to date) related thereto, to the extent such documents are available; for properties acquired by ordinance, easement grant, adverse possession, location, occupancy, use or similar acquisition, the original acquisition instruments together with all maps, records and correspondence files relating thereto, to the extent such documents are available.

B. On the Closing Date or other mutually agreeable date, MKT at its expense, shall deliver to BN the originals, or copies where appropriate, of all leases, contracts rights-of-way drawings, valuation maps, deeds, easement agreements, station maps, wire line and pipeline agreements and other documents normally maintained in the operation of a railroad, as well as engineering records and deed records applicable to the Properties.

7. Proration of Taxes.

Ad valorem taxes covering the Properties for the year in which this transaction is closed shall be prorated as of the Closing Date on the basis of the most recent tax

bills. If a parcel is not specifically identified in the applicable tax bill, the taxes shall be further prorated on the basis of the ratio that the track miles or acreage, whichever is applicable, bear to the total trackage miles or acreage included in the tax bill.

8. Documentary Stamps and Transfer Taxes.

BN shall purchase, affix and cancel any and all documentary stamps required by law, if any, and shall hold MKT free from liability for any and all transfer taxes or any other fees or charges whatsoever imposed by reason of BN's filing and recording of the conveyance of the Properties.

9. Closing Date.

Closing Date shall be on or before ninety (90) days after the date hereof at a mutually acceptable location.

10. Successors and Assigns.

This Contract shall be binding upon and inure to the benefit of the successors and assigns and designees of the parties.

11. Assumption of Other Agreements.

MKT hereby agrees to assign by separate written instrument, and BN agrees to assume, perform and be bound by the terms and conditions of any such agreements, licenses or easements pertaining to the use, maintenance, operation or existence of the Properties for railroad transportation

purposes. The provisions of this Section shall apply to any agreement, license or easement inadvertently excluded from such assignment at the Closing Date provided that, by reason of any assignment of any such agreement, easement or license, BN shall not assume any material financial liability or suffer any impairment of its interest in the Properties.

12. Notices.

All notices, demands, requests or other communications which may be or are required to be given, served or sent by either party to the other pursuant to this Contract shall be in writing and shall be deemed to have been properly given or sent:

A. If intended for MKT, by mailing by registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

Arthur M. Albin  
General Counsel  
Missouri-Kansas-Texas Railroad Company  
1416 Dodge Street  
Omaha, Nebraska 68179

B. If intended for BN, by mailing by registered or certified mail, return receipt requested, with postage prepaid, addressed to BN at:

Michael E. Roper  
Associate General Counsel  
Burlington Northern Railroad Company  
3800 Continental Plaza  
777 Main Street  
Fort Worth, Texas 76102

Each party may designate by notice in writing a new address to which any notice, demand, request or communication may thereafter be so given, served or sent. Each notice, demand, request or communication which shall be mailed by registered or certified mail to MKT or to BN in the manner aforesaid shall be deemed sufficiently given, served or sent for all purposes at the time such notice, demand, request or communication shall be either received by the addressee or refused by the addressee upon presentation.

13. Survival of Terms.

All covenants and conditions hereof, which, by their terms, or by nature cannot be or are not performed or fulfilled by Closing Date, shall survive the Closing.

IN WITNESS WHEREOF, the parties hereto have executed this Contract the date above written.

MISSOURI-KANSAS-TEXAS RAILROAD  
COMPANY

WITNESS:

R. C. Ingram

By

R. K. [Signature]  
Vice President

BURLINGTON NORTHERN RAILROAD  
COMPANY

WITNESS:

Z. [Signature]

By

R. I. Hawley  
Vice President

## MISSOURI, KANSAS AND TEXAS RAILROAD COMPANY

## JASPER COUNTY, MISSOURI

All right, title and interest in and to the right of way, trackage and appurtenances of the Missouri, Kansas and Texas Railroad Company as now constructed and operated in, over and across the N $\frac{1}{2}$ SW $\frac{1}{2}$ , SE $\frac{1}{2}$ NW $\frac{1}{2}$ , NW $\frac{1}{2}$ SE $\frac{1}{2}$  and S $\frac{1}{2}$ NE $\frac{1}{2}$  of Section 2, Township 27 North, Range 34 West of the Fifth Principal Meridian in Jasper County, Missouri, that lie between the west line of said Section 2 and a straight line drawn at right angles through the centerline of main track of said Railroad Company at Railroad Engineering Station 1270+15 (Milepost 434.16).

Office of Contracts & Real Estate  
Omaha, Nebraska - August 11, 1989

## MISSOURI-KANSAS-TEXAS RAILROAD COMPANY

## CHEROKEE COUNTY, KANSAS

All right, title and interest in and to the right-of-way, trackage and appurtenances of the Missouri-Kansas-Texas Railroad Company in Cherokee County, Kansas, in, over and across the following legal subdivisions:

<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
S 1/2 E 1/2	12	34 S.	25 E.	6th
	13	"	"	"
	14	"	"	"
	15	"	"	"
SW 1/4	10	"	"	"
N 1/2 S 1/2 and NW 1/4	9	"	"	"
NE 1/4 NE 1/4	8	"	"	"
SE 1/4, NE 1/4 SW 1/4 and S 1/2 NW 1/4	5	"	"	"
N 1/2	6	"	"	"
NE 1/4 NE 1/4	1	34 S.	24 E.	"
S 1/2 SE 1/4 and SW 1/4	36	33 S.	24 E.	"
NE 1/4 SE 1/4, S 1/2 NE 1/4 and NW 1/4	35	"	"	"
N 1/2 N 1/2	34	"	"	"
SW 1/4 SW 1/4	27	"	"	"
S 1/2	28	"	"	"
NE 1/4 SE 1/4, NE 1/4 and NE 1/4 NW 1/4	29	"	"	"
SW 1/4	20	"	"	"
NE 1/4 SE 1/4, S 1/2 NE 1/4 and NW 1/4	19	"	"	"
SW 1/4 SW 1/4	18	"	"	"

<u>Subdivision</u>	<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Meridian</u>
NE 1/4 NE 1/4	24	33 S.	23 E.	6th
SE 1/4	13	"	"	"

Also, all right, title and interest in and to the right-of-way, trackage and appurtenances of the Missouri-Kansas-Texas Railroad Company, as now constructed and operated in, over and across the NE 1/4 of Section 13, Township 33 South, Range 23 East of the Sixth Principal Meridian in Cherokee County, Kansas, that lie between the south line of said NE 1/4 and a straight line drawn radially through the centerline of main track of said Railroad Company at Railroad Engineering Station 457+55 (M.P. 418.77).

Office of Contracts & Real Estate  
Omaha, Nebraska  
August 11, 1989



EXHIBIT B

QUITCLAIM DEED

MISSOURI-KANSAS-TEXAS RAILROAD COMPANY, a Delaware corporation, Grantor, in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, to it duly paid, the receipt whereof is hereby acknowledged, does hereby REMISE, RELEASE and forever QUITCLAIM unto BURLINGTON NORTHERN RAILROAD COMPANY, a \_\_\_\_\_ corporation, Grantee, whose address is \_\_\_\_\_

\_\_\_\_\_ and unto its successors and assigns forever, all of Grantor's right, title, interest, estate, claim and demand, both at law and in equity, of, in, and to Grantor's line of railroad from Milepost 419.19 at Columbus, Kansas, to Milepost 434.16 at Horn, Missouri, situate in Cherokee County in the State of Kansas and Jasper County in the State of Missouri, as more particularly described in Exhibit A, hereto attached and hereby made a part hereof, including all rights-of-way, trackage, stations, station grounds, buildings, terminal facilities and yards owned by Grantor located on said real estate described in Exhibit A, and all other railroad facilities which are appurtenant to said real estate, including, but not limited to, signals, interlocking devices and plants, communication facilities and any other appurtenance necessary or useful to the operation of such line of railroad, but EXCLUDING all inventory, equipment, tools, machinery, locomotives, cars, nonrail work equipment, or other uninstalled personal property of the Grantor of whatsoever nature and wheresoever located.

RESERVING unto Grantor, its successors and assigns, forever, all minerals and all mineral rights of every kind and character now known to exist or hereafter discovered underlying the property described in Exhibit A, including without limiting the generality of the foregoing, oil, gas and other minerals and rights thereto, together with the sole, exclusive and perpetual right to explore for, remove and dispose of said minerals by any means or methods suitable to the Grantor, its successors and assigns, but without entering upon or using the surface of said property, and in such manner as not to damage the surface of said

property, or to interfere with the use thereof by the Grantee, its successors and assigns.

This deed is made SUBJECT to the condition that all ad valorem taxes covering the property described in Exhibit A shall be prorated as of the date of this deed on the basis of the most recent tax bills. If a parcel of property is not specifically identified in the applicable tax bill, the taxes shall be further prorated on the basis of the ratio that the track miles or acreage, whichever is applicable, bear to the total trackage miles or acreage included in the tax bill.

This deed is also SUBJECT to all other conditions, restrictions, covenants, reservations, easements, superior rights and encumbrances affecting the property described in Exhibit A, whether recorded or unrecorded.

THIS QUITCLAIM IS MADE ON AN "AS IS, WHERE IS" BASIS WITHOUT ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, CONCERNING THE CONDITION OF SAID REAL ESTATE AND/OR ANY OF THE IMPROVEMENTS OR APPURTENANCES DESCRIBED IN THE FIRST PARAGRAPH OF THIS DEED. GRANTEE HEREBY SPECIFICALLY WAIVES ANY IMPLIED WARRANTIES (IF ANY) PROVIDED FOR BY KANSAS OR MISSOURI LAW, INCLUDING ANY AND ALL WARRANTIES AGAINST VICES OR DEFECTS OR WARRANTIES REGARDING FITNESS FOR ANY PARTICULAR USE OR PURPOSE WHATSOEVER.

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging; TO HAVE AND TO HOLD, subject to the aforesaid provisions, the property described in Exhibit A unto the said Grantee and unto its successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused this deed to be duly executed on its part as of the \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

Attest:

MISSOURI-KANSAS-TEXAS RAILROAD  
COMPANY,

\_\_\_\_\_  
Assistant Secretary

By \_\_\_\_\_  
Executive Vice President-Operation

(Seal)

STATE OF NEBRASKA)  
                                ) ss.  
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_, by Mr. R. K. Davidson, Executive Vice President-Operation of Missouri-Kansas-Texas Railroad Company, a Delaware Corporation, on behalf of the corporation.

Notary Public

(Seal)

**\*662058\***



## **REMS FileNet Cover Sheet**

<b>AUDIT NUMBER</b>	255851
<b>FOLDER NUMBER</b>	0263193
<b>CITY</b>	COLUMBUS
<b>STATE</b>	KS
<b>PARTY NAME</b>	BURLINGTON NORTHERN RAILROAD COMPAN
<b>PRIMARY PURPOSE</b>	Sale of RR Line to Another RR
<b>EFF. DATE</b>	6/3/1991
<b>MP START</b>	419.9
<b>MP END</b>	434.16
<b>PRIMARY CIRC7</b>	LL419
<b>DESCRIPTION</b>	Assignment
<b>BOX NUMBER</b>	0
<b>BATCH</b>	00

AUDIT 255851

Folder No. 475-68

ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS, that MISSOURI PACIFIC RAILROAD COMPANY, a Delaware corporation, successor in interest to the Missouri-Kansas-Texas Railroad Company, (hereinafter the "Assignor") does, for valuable consideration, effective as of the date hereof assign, transfer and set over unto the BURLINGTON NORTHERN RAILROAD COMPANY, a corporation of the State of Delaware, whose post office address is 2680 Continental Plaza, 777 Main Street, Fort Worth, Texas 76102, (hereinafter the "Assignee") all of the Assignor's right, title and interest in, to and under each and all of the agreements shown in Exhibit A, hereto attached.

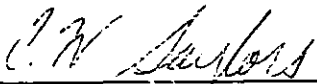
In addition, it is understood and agreed that one or more of the agreements or contracts listed in Exhibit A may affect, pertain to or cover the "Line" as described in that certain Line Sale Contract between the parties dated the 1st day of August, 1989 covering the sale of that portion of the Galena Branch, Joplin Subdivision from Mile Post 418.77 at Columbus, Kansas, to Mile Post 434.16 at Horn, Missouri, as well as property and/or right-of-way not sold to Assignee under the aforesaid Line Sale Contract, and this assignment shall only be effective to partially assign Assignor's interest therein to the extent that such agreement or contract pertains to the Line. Any future payments due from third parties thereunder shall be collected by Assignor and the Assignor shall pay to the Assignee its pro rata portion thereof.

Subject to the above, Assignee hereby accepts the assignment of the agreements shown on Exhibit A, assumes all of the duties, obligations and liabilities of Assignor thereunder, and agrees to release the Assignor, its successors and assigns, from any and all obligations arising out of, or pursuant to, the agreements herein assigned from and after the effective date hereof.

This assignment shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns. No provision hereof shall be construed as intended for the benefit of any third party.

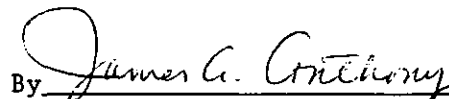
Dated this 3rd day of June, 1991.

Attest



Assistant Secretary

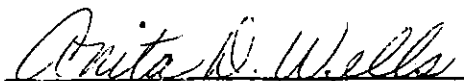
MISSOURI PACIFIC RAILROAD COMPANY

By 

Title: Director Contracts (Assignor)

(SEAL)

Attest



Assistant Secretary

BURLINGTON NORTHERN RAILROAD COMPANY

By Title: DIRECTOR - TITLE SERVICES (Assignee)

(SEAL)

UPRR000155

## "EXHIBIT A"

CONTRACT & REAL ESTATE DEPARTMENT  
 GALENA BRANCH - MP 418.77 TO MP 434.16  
 COLUMBUS, KANSAS - HORN, MISSOURI  
 DATE: 2-12-91

AUDITNO	LOCATION	TYPE	PARTY	MP	FOLDER
-----	-----	----	-----	-----	-----
CA150618	COLUMBUS, KS	F/O XNG	COLUMBUS TELE CO	419.07	134595
KT11479.001	GALENA, KS	P/L XNG	AMERICAN GAS CO	432.60	0
KT12346	MILITARY, KS	ITA	GULF OIL CORP	429.46	0
KT12372	GALENA, KS	P/L XNG	EAGLE PITCHER MIN &	431.77	0
KT13316	COLUMBUS, KS	P/L XNG	CITIES SERVICE GAS C	421.51	0
KT13632	COLUMBUS, KS	W/L XNG	EMPIRE DIST ELECTRIC	424.00	0
KT13633	COLUMBUS, KS	W/L XNG	EMPIRE DIST ELECTRIC	424.00	0
KT13634	COLUMBUS, KS	W/L XNG	EMPIRE DIST ELECTRIC	424.00	0
KT13635	COLUMBUS, KS	W/L XNG	EMPIRE DIST ELECTRIC	424.00	0
KT16307	COLUMBUS, KS	W/L XNG	EMPIRE DIST ELEC CO	419.25	0
KT1704	COLUMBUS, KS	P/L XNG	KLEFFMAN, ARTHUR	419.56	0
KT17088	GALENA, KS	W/L XNG	EMPIRE DIST ELEC CO	432.98	0
KT17232	GALENA, KS	W/L XNG	MERRITT, CHAPMAN & S	433.60	0
KT17382	GALENA, KS	W/L XNG	EMPIRE DIST ELECTRIC	433.14	0
KT17743	GALENA, KS	P/L XNG	FARMERS CHEMICAL COR	433.67	0
KT17745	COLUMBUS, KS	W/L XNG	EMPIRE DIST ELECTRIC	419.72	0
KT17810	GALENA, KS	W/L XNG	EMPIRE DIST ELECTRIC	433.00	0
KT17943	GALENA, KS	JT ITA	EAGLE PICHER-FRISCO	433.00	0
KT18441	GALENA, KS	W/L XNG	THE EAGLE PICHER CO	433.24	0
KT2045	GALENA, KS	ITA	THE EAGLE PICHER CO	432.80	0
KT20835	GALENA, KS	W/L XNG	EMPIRE DIST. ELECTRI	430.77	0
KT21020	GALENA, KS	W/L XNG	KANSAS STATE TELEPHO	431.16	0
KT21063	GALENA, KS	W/L XNG	KANSAS STATE TELEPHO	432.40	0
KT21175	GALENA, KS	W/L XNG	EAGLE PICHER CO THE	432.68	0
KT21703	COLUMBUS, KS	W/L XNG	CRAW-KAN TELE COOP A	421.66	0
KT21704	COLUMBUS, KS	W/L XNG	CRAW-KAN TELE COOP A	423.67	0
KT21705	COLUMBUS, KS	W/L XNG	CRAW-KAN TELE COOP A	424.00	0
KT21706	COLUMBUS, KS	W/L XNG	CRAW-KAN TELE COOP A	425.00	0
KT22201*	COLUMBUS, KS	P/L XNG	COLUMBUS, CITY OF	*	0
KT23473	COLUMBUS, KS	P/L XNG	COLUMBUS, CITY OF	419.87	0
KT24230	MILITARY, KS	P/L XNG	CHEROKEE COUNTY RURA	426.35	0
KT24231	MILITARY, KS	P/L XNG	CHEROKEE COUNTY RURA	427.73	0
KT24943	COLUMBUS, KS	P/L XNG	RURAL WATER DIST NO.	424.46	0
KT24944	COLUMBUS, KS	P/L XNG	RURAL WATER DIST NO.	423.68	0
KT25945	GALENA, KS	P/L XNG	GALENA, CITY OF	432.06	0
KT25946	GALENA, KS	P/L XNG	GALENA, CITY OF	432.77	0
KT25976	GALENA, KS	W/L XNG	THE EMPIRE DISTRICT	430.52	0
KT28859	COLUMBUS, KS	P/L XNG	RURAL WATER DISTRICT	421.46	0
KT29324	GALENA, KS	LEASE	BLACK DIAMOND COMPAN	432.60	130632
KT31042	COLUMBUS, KS	W/L XNG	CRAW-KAN TEL COOP	421.47	0
KT31044	COLUMBUS, KS	W/L XNG	COLUMBUS TEL CO	419.17	0
KT31095	GALENA, KS	P/L XNG	CITIES SERVICE GAS C	431.43	130692
KT31231**	GALENA, KS	W/L XNG	SOUTHWESTERN BELL TE	**	0
KT32621	GALENA, KS	P/L XNG	CITIES SERVICE GAS C	426.70	130693
KT33885	MILITARY, KS	W/L XNG	THE EMPIRE DIST. ELE	426.53	130769
KT34719	COLUMBUS, KS	ITA	RICKEL, INC	419.00	0

CONTRACT & REAL ESTATE DEPARTMENT  
 GALENA BRANCH - MP 418.77 TO MP 434.16  
 COLUMBUS, KANSAS - HORN, MISSOURI  
 DATE: 02-12-91

AUDITNO	LOCATION	TYPE	PARTY	MP	FOLDER
-----	-----	----	-----	-----	-----
KT35096	GALENA,KS	W/L XNG	KANSAS STATE TELE CO	430.90	130405
KT35233	CRAIN,KS	W/L XNG	KANSAS STATE TELEPHO	427.73	130406
KT35756	COLUMBUS,KS	P/L XNG	COLUMBUS, CITY OF	419.87	130740
KT36373	GALENA,KS	P/L XNG	GAS SERVICE COMPANY	432.45	130344
KT4364	COLUMBUS,KS	P/R XNG	J R GAITHER	421.00	0
KT6531	COLUMBUS,KS	W/L XNG	EMPIRE DISTRICT ELE	420.95	0

\* The Assignor does hereby assign, transfer and set over unto the Assignee only those portions of Pipe Line Audit No. KT22201 described therein as Pipeline No. 2, Pipeline No.3, Pipeline No. 4 and Pipeline No. 6.

\*\* The Assignor is a party to a Blanket Agreement, Audit No. KT31231, with Southwestern Bell Telephone Company covering wire line crossings in various States, including the State of Kansas. Exhibit Nos. K-197 and K-200 are supplemental to such Blanket Agreement and the Assignor does hereby assign, transfer and set over unto the Assignee only those portions of said Blanket Agreement as covered under said Exhibit Nos. K-197 and K-200.

**\*662057\***



## **REMS FileNet Cover Sheet**

<b>AUDIT NUMBER</b>	255851
<b>FOLDER NUMBER</b>	0263193
<b>CITY</b>	COLUMBUS
<b>STATE</b>	KS
<b>PARTY NAME</b>	BURLINGTON NORTHERN RAILROAD COMPAN
<b>PRIMARY PURPOSE</b>	Sale of RR Line to Another RR
<b>EFF. DATE</b>	5/31/1991
<b>MP START</b>	419.9
<b>MP END</b>	434.16
<b>PRIMARY CIRC7</b>	LL419
<b>DESCRIPTION</b>	Quitclaim Deeds
<b>BOX NUMBER</b>	0
<b>BATCH</b>	00



AUDIT 255851**QUITCLAIM DEED**

**MISSOURI PACIFIC RAILROAD COMPANY**, a Delaware corporation (which through merger with the Missouri-Kansas-Texas Railroad Company became successor in interest to the real property and trackage described herein), Grantor, in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, to it duly paid, the receipt whereof is hereby acknowledged, does hereby **REMISE, RELEASE** and forever **QUITCLAIM** unto **BURLINGTON NORTHERN RAILROAD COMPANY**, a Delaware corporation, Grantee, whose address is 2100 FIC, 999 Third Avenue, Seattle, Washington 98104, and unto its successors and assigns forever, all of Grantor's right, title, interest, estate, claim and demand, both at law and in equity, of, in, and to Grantor's line of railroad from Milepost 433.41 to Milepost 434.16 at Horn, Missouri, situate in Jasper County in the State of Missouri, as more particularly described in Exhibit A, hereto attached and hereby made a part hereof, including all rights of way, trackage, stations, station grounds, buildings, terminal facilities and yards owned by Grantor located on said real estate described in Exhibit A, and all other railroad facilities which are appurtenant to said real estate, including, but not limited to, signals, interlocking devices and plants, communication facilities and any other appurtenance necessary or useful to the operation of such line of railroad, but **EXCLUDING** all inventory, equipment, tools, machinery, locomotives, cars, nonrail work equipment, or other uninstalled personal property of the Grantor of whatsoever nature and wheresoever located.

This deed is made **SUBJECT** to the condition that all ad valorem taxes covering the property described in Exhibit A shall be prorated as of the date of this deed on the basis of the most recent tax bills. If a parcel of property is not specifically identified in the applicable tax bill, the taxes shall be further prorated on the basis of the ratio that the track miles or acreage, which ever is applicable, bear to the total trackage miles or acreage included in the tax bill.


This deed is also **SUBJECT** to all other conditions, restrictions, covenants, reservations, easements, superior rights and encumbrances affecting the property described in Exhibit A, whether recorded or unrecorded.

**THIS QUITCLAIM IS MADE ON AND "AS IS, WHERE IS" BASIS WITHOUT ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, CONCERNING THE CONDITION OF SAID REAL ESTATE AND/OR ANY OF THE IMPROVEMENTS OR APPURTENANCES DESCRIBED IN THE FIRST PARAGRAPH OF THIS DEED. GRANTEE HEREBY SPECIFICALLY WAIVES ANY IMPLIED WARRANTIES (IF ANY) PROVIDED FOR BY KANSAS OR MISSOURI LAW, INCLUDING ANY AND ALL WARRANTIES AGAINST VICES OR DEFECTS OR WARRANTIES REGARDING FITNESS FOR ANY PARTICULAR USE OR PURPOSE WHATSOEVER.**


TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging; TO HAVE AND TO HOLD, subject to the aforesaid provisions, the property described in Exhibit A unto the said Grantee and unto its successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused this deed to be duly executed on its part as of the 31 day of May, 1991.

**MISSOURI PACIFIC  
RAILROAD COMPANY**

By   
R. K. Davidson, Executive  
Vice President Operation

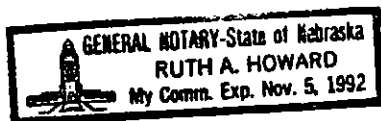
ATTEST:

By   
Assistant Secretary

BN 9951 Jasper Co., MO

STATE OF NEBRASKA       )  
                                      ) ss.  
COUNTY OF DOUGLAS     )

The foregoing instrument was acknowledged before me this 31 day of May, 1991, by Mr. R. K. Davidson, Executive Vice President - Operation of Missouri Pacific Railroad Company, a Delaware Corporation, on behalf of the corporation.



Ruth A. Howard  
Notary Public

BN 9951 Jasper Co., MO

EXHIBIT "A"

To Quitclaim Deed from the Missouri Pacific Railroad  
Company to Burlington Northern Railroad Company in Jasper  
County, Missouri, Pages 1 and 2

All that portion of the Missouri Pacific Railroad Company's Columbus, Kansas to Horn, Missouri Branch Line right of way, being of variable width on each side of said Railroad Company's Main Track centerline, as now located and constructed upon, over and across Section 2, T27N, R34W of the 5th P.M., Jasper County, Missouri, described as follows, to-wit:

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across Lots 1 and 2 of the SW $\frac{1}{4}$ , the NW $\frac{1}{4}$ SE $\frac{1}{4}$  and the SE $\frac{1}{4}$ NW $\frac{1}{4}$ , and Lots 1 and 2 of the NW $\frac{1}{4}$  of said Section 2; bounded between the West line of said Lot 2 of the SW $\frac{1}{4}$  and a line drawn at right angles to said Main Track centerline distant 3963.0 feet Northeasterly of the West line of said Lot 2 of the SW $\frac{1}{4}$  as measured along said Main Track centerline, EXCEPTING THEREFROM: all that portion of the hereinabove described 100 foot wide right of way lying Northerly of a line drawn parallel with and distant 50.0 feet Southerly of, as measured at right angles and radially to Burlington Northern Railroad Company's (formerly St. Louis - San Francisco Railway Company) Main Track centerline as now located and constructed; the hereinabove being the same premises conveyed by the following instruments:

- (1) That condemnation conveying from Cormick Ferguson and Joseph Fallenbach to the Missouri, Kansas and Northwestern Railroad Company by instrument dated January 20, 1902 and recorded in the office of the Circuit Court in and for Jasper County in Book No. 1 of the Circuit Court Records on Page 551.
- (2) That deed from the Cave Spring Consolidated Mining Company to the Missouri, Kansas and Northwestern Railroad Company by instrument dated January 3, 1902 and filed for record on February 18, 1902 in the office of the Registrar of Deeds in and for Jasper County, Missouri in Book 165 on Page 290.
- (3) That deed from William E. Brinkerhoff et al. to the Missouri, Kansas and Northwestern Railroad Company by instrument dated January 6, 1902 and filed for record on February 18, 1902 in the office of the Registrar of Deeds in and for Jasper County, Missouri in Book 165 on Page 283.
- (4) That deed from C. A. Trimms et al. to the Missouri, Kansas and Northwestern Railroad Company by instrument dated January 20, 1902 and filed for record on February 18, 1902 in the office of the Registrar of Deeds in and for Jasper County, Missouri in Book 165 on Page 282.
- (5) That deed from Jefferson McKinney et al. to the Missouri, Kansas and Northwestern Railroad Company by instrument dated January 8, 1902 and filed for record on February 18, 1902 in the office of the Registrar of Deeds in and for Jasper County, Missouri in Book 165 on Page 281.

ALSO

All right and title to the Easement granted from the St. Louis - San Francisco Railway Company to the Missouri, Kansas and Northwestern Railroad Company for a right of way crossing in Lots 1 and 2 of said NE $\frac{1}{4}$  of Section 2.

Columbus to Horn [Jasper County]

## QUITCLAIM DEED

**MISSOURI PACIFIC RAILROAD COMPANY**, a Delaware corporation (which through merger with the Missouri-Kansas-Texas Railroad Company became successor in interest to the real property and trackage described herein), Grantor, in consideration of the sum of Ten Dollars (\$10.00), and other good and valuable consideration, to it duly paid, the receipt whereof is hereby acknowledged, does hereby **REMISE, RELEASE** and forever **QUITCLAIM** unto **BURLINGTON NORTHERN RAILROAD COMPANY**, a Delaware corporation, Grantee, whose address is 2100 FIC, 999 Third Avenue, Seattle, Washington 98104, and unto its successors and assigns forever, all of Grantor's right, title, interest, estate, claim and demand, both at law and in equity, of, in, and to Grantor's line of railroad from Milepost 418.77 at Columbus, Kansas to Milepost 433.41, situate in Cherokee County in the State of Kansas, as more particularly described in Exhibit A, hereto attached and hereby made a part hereof, including all rights of way, trackage, stations, station grounds, buildings, terminal facilities and yards owned by Grantor located on said real estate described in Exhibit A, and all other railroad facilities which are appurtenant to said real estate, including, but not limited to, signals, interlocking devices and plants, communication facilities and any other appurtenance necessary or useful to the operation of such line of railroad, but **EXCLUDING** all inventory, equipment, tools, machinery, locomotives, cars, nonrail work equipment, or other uninstalled personal property of the Grantor of whatsoever nature and wheresoever located.

This deed is made **SUBJECT** to the condition that all ad valorem taxes covering the property described in Exhibit A shall be prorated as of the date of this deed on the basis of the most recent tax bills. If a parcel of property is not specifically identified in the applicable tax bill, the taxes shall be further prorated on the basis of the ratio that the track miles or acreage, which ever is applicable, bear to the total trackage miles or acreage included in the tax bill.

This deed is also **SUBJECT** to all other conditions, restrictions, covenants, reservations, easements, superior rights and encumbrances affecting the property described in Exhibit A, whether recorded or unrecorded.

**THIS QUITCLAIM IS MADE ON AND "AS IS, WHERE IS" BASIS WITHOUT ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, CONCERNING THE CONDITION OF SAID REAL ESTATE AND/OR ANY OF THE IMPROVEMENTS OR APPURTENANCES DESCRIBED IN THE FIRST PARAGRAPH OF THIS DEED. GRANTEE HEREBY SPECIFICALLY WAIVES ANY IMPLIED WARRANTIES (IF ANY) PROVIDED FOR BY KANSAS OR MISSOURI LAW, INCLUDING ANY AND ALL WARRANTIES AGAINST VICES OR DEFECTS OR WARRANTIES REGARDING FITNESS FOR ANY PARTICULAR USE OR PURPOSE WHATSOEVER.**

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging; TO HAVE AND TO HOLD, subject to the aforesaid provisions, the property described in Exhibit A unto the said Grantee and unto its successors and assigns.

IN WITNESS WHEREOF, the Grantor has caused this deed to be duly executed on its part as of the 31 day of May, 1991.

MISSOURI PACIFIC  
RAILROAD COMPANY

By R. K. Davidson  
R. K. Davidson, Executive  
Vice President - Operation

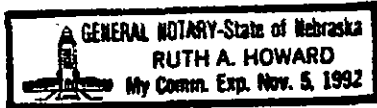
ATTEST:

By C. W. Taylor  
Assistant Secretary

BN 9951 Cherokee Co., MO

STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) ss.

The foregoing instrument was acknowledged before me this 31 day of Aug, 1991, by Mr. R. K. Davidson, Executive Vice President - Operation of Missouri Pacific Railroad Company, a Delaware Corporation, on behalf of the corporation.



Ruth A. Howard  
Notary Public

BN 9951 Cherokee Co., MO



EXHIBIT "A"

To Quitclaim Deed from the Missouri Pacific Railroad  
Company to Burlington Northern Railroad Company in  
Cherokee County, Kansas, Pages 1 to 17

All that portion of the Missouri Pacific Railroad Company's Columbus, Kansas to Horn, Missouri Branch Line right of way, being of variable width on each side of said Railroad Company's Main Track centerline, as now located and constructed upon, over and across Sections 5, 6, 8, 9, 10, 12, 13, 14, and 15, T34S, R25E; Section 1, T34S, R24E; Sections 18, 19, 20, 27, 28, 29, 34, 35, and 36, T33S, R24E; and Sections 13 and 24, T33S, R23E; all referenced to the 6th P.M., Cherokee County, Kansas, described as follows, to-wit:

All that portion of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 13, T33N, R23E described as follows: Beginning at the Northwest corner of Block 2, Park Addition to the City of Columbus, Kansas; thence Southerly along the West line of said Block 2 to a point distant 110.0 feet Northerly of the South line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 13; thence Westerly at right angles to the last described course a distance of 79.0 feet to the intersection with a line drawn parallel with and distant 50.0 feet Easterly of, as measured radially and at right angles to, Burlington Northern Railroad Company's (formerly St. Louis - San Francisco Railway Company) North-South running Main Track centerline, as now located and constructed; thence Northerly parallel with said Burlington Northern Railroad Company's North-South Main Track centerline to the intersection with the Westerly extension of the North line of said Block 2; thence Easterly along said Westerly extension to the Point of Beginning; also,

All that portion of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 13, T33N, R23E described as follows: Beginning at a point on the South line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 13 distant 80.0 feet West of the Northeast corner of Lot 2, Block 2 of the Park Addition to the City of Columbus, Kansas; thence Northerly along the West line of said Block 2 for a distance of 110.0 feet; thence Westerly at right angles to the last described course a distance of 79.0 feet to the intersection with a line drawn parallel with and distant 50.0 feet Easterly of, as measured radially to, said Burlington Northern Railroad Company's (formerly St. Louis - San Francisco Railway Company) North-South running Main Track centerline as now located and constructed; thence Southerly parallel with said North-South running Main Track centerline a distance of 115.0 feet to the intersection with said South line of the NW $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence Easterly along said South line 112.0 feet, more or less, to the Point of Beginning; the hereinabove described premises being the same conveyed from Mary Jane Wiley and John Tague to the Missouri, Kansas, and Northwestern Railroad Company by instrument dated January 21, 1902 and filed for record on February 3, 1902 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 198; also,

That portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  and the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of Section 13, T33N, R23E, described as follows: Beginning at the intersection of the North line of vacated Olive Street, according to the recorded plat thereof (said North line also being the Westerly extension of the South line of Lot 9, Block 3 of the East Addition to the City of Columbus), and a line drawn parallel with and distant 100.0 feet Easterly of, as measured at right angles to, Burlington Northern Railroad Company's (formerly St.

Louis - San Francisco Railway Company) North-South running Main Track centerline; thence Northerly in a straight line parallel with the straight portion of said former St. Louis - San Francisco Railway Company North-South Main Track centerline produced to an intersection with a line drawn parallel with and distant 50.0 feet Southeasterly of, as measured radially to, the curved portion of said Burlington Northern Railroad Company's (formerly St. Louis - San Francisco Railway Company) Main Track centerline; thence Northeasterly parallel with said Burlington Northern Railroad Company's (formerly St. Louis - San Francisco Railway Company) Main Track centerline to the intersection with the North line of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 13; thence Easterly to the Northwest corner of Lot 2, Block 2, Park Addition to the City of Columbus; thence Southerly along the West line and the Southerly extension thereof of said lot to the intersection with the Westerly line of Western Boulevard, according to the recorded plat thereof (said Westerly line being a line drawn parallel with and distant 200.0 feet Easterly of, as measured at right angles and radially to, said former St. Louis - San Francisco Railway Company's Main Track centerline); thence Southerly along said Westerly line of Western Avenue to the intersection with said Northerly line of vacated Olive Street; thence Westerly along said Northerly line to the Point of Beginning; the hereinabove described premises being a portion of the same conveyed from the Kansas City, Fort Scott & Memphis Railway Company and the St. Louis - San Francisco Railway Company to the Missouri, Kansas and Northwestern Railroad Company by instrument dated January 9, 1902 and filed for record in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Volume 101 on Page 47; also,

All right, title and interest in said Railroad Company's Spur Track No. 72, as originally located and constructed upon, over and across Western Boulevard, according to the recorded plat thereof, and Lot 7, Block 11 of the Park Addition to the City of Columbus, Kansas; also,

All right, title and interest in said Railroad Company's Connecting Track No. 54 right of way situated in the SE $\frac{1}{4}$  of said Section 13; bounded between Burlington Northern Railroad Company's (formerly St. Louis - San Francisco Railway Company) most Northerly side track centerline and a line drawn parallel with and distant 100.0 feet Easterly of, as measured at right angles to, said former St. Louis - San Francisco Railway Company Main Track centerline (said hereinabove described premises being the same conveyed from the St. Louis - San Francisco Railway Company to the Missouri, Kansas and Texas Railroad Company by instrument dated March 23, 1931; also,

All of Lot 9 and that portion of Lots 6, 7 and 8, in Block 1, Crewsen's Addition to Columbus, Kansas, lying Southwesterly of a line drawn parallel with and distant 50.0 feet Southwesterly of, as measured radially to, said Missouri Pacific Railroad Company Main Track centerline, as now located and constructed; the hereinabove described premises being the same conveyed from R. M. Nugent and Ora E. Nugent to the Missouri, Kansas and Texas Railway Company by instrument dated June 1, 1907 and filed for record on June 17, 1907 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 70, Page 513; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Missouri Pacific Railroad Company's Main Track centerline upon, over and across the vacated 70.0 foot wide Olive Street, according to the recorded plat thereof; Lots 4, 5, 6, 7, 8, 13, 14, 15, 16, 17, and 18 of Block 1 of Crewsen's Addition to the City of Columbus; the 70.0 foot wide right of way of Frances Street, according to the recorded plat thereof; Lots 1 and 2 of Block 2 of

said Crewsen's Addition to the City of Columbus, bounded between the North line of said vacated Olive Street and the East line of Lot 1, Block 2 and its Northerly extension of said Crewsen's Addition; said hereinabove being a portion of the same premises conveyed from R. M. Nugent and Ora E. Nugent to the Missouri, Kansas, and Northwestern Railroad Company by instrument dated October 4, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 5; also,

All that portion of said Railroad Company's 130.0 foot wide Branch Line right of way, being 80.0 feet wide on the Northeasterly side and 50.0 feet wide on the Southwesterly side of said Railroad Company's Main Track centerline situated in the  $S\frac{1}{2}SE\frac{1}{4}$  of said Section 13, T33S, R23E; bounded between the East line of Lot 1 of Block 2 and its Northerly extension of Crewsen's Addition to the City of Columbus and a line drawn at right angles to said Main Track centerline distant, 1160.0 feet Northwesterly of the South line of said  $S\frac{1}{2}SE\frac{1}{4}$  of Section 13 as measured along said Main Track centerline; said hereinabove being a portion of the same conveyed from R. M. Nugent and Ora E. Nugent to the Missouri, Kansas, and Northwestern Railroad Company by instrument dated October 4, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 5, and as stated in that correction deed granted to said Railroad Company by R. M. Nugent and Ora E. Nugent by instrument dated January 21, 1902 and filed for record on February 3, 1902 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 199; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $SE\frac{1}{4}SE\frac{1}{4}$  of said Section 13, the  $NE\frac{1}{4}NE\frac{1}{4}NE\frac{1}{4}$  of said Section 24, in T33S, R23E; the  $SW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$  of said Section 18, the  $N\frac{1}{2}NW\frac{1}{4}$ , and the  $N\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ , and the  $SW\frac{1}{4}NE\frac{1}{4}$  of said Section 19, T33S, R24E; bounded on the Northwesterly side by a line drawn at right angles to said Main Track centerline distant 1160.0 feet Northwesterly of the South line of said  $SE\frac{1}{4}SE\frac{1}{4}$  of Section 13 as measured along said Main Track centerline and bounded on the Southeasterly side by a line drawn at right angles to said Main Track centerline distant 935.0 feet Southeasterly of the West line of said  $SW\frac{1}{4}NE\frac{1}{4}$  of said Section 19, as measured along said Main Track centerline; the hereinabove being the same or a portion of the same premises conveyed by the following:

- (1) That Deed from R. M. Nugent and Ora E. Nugent to the Missouri, Kansas and Northwestern Railroad dated October 4, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 5.
- (2) That Deed from Clementine M. Smith to the Missouri, Kansas and Northwestern Railroad Company dated September 19, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deed in and for Cherokee County, Kansas in Book 56 on Page 9.
- (3) That Deed from Frances E. Blake and T. A. Blake to the Missouri, Kansas and Northwestern Railroad Company dated September 25, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 19.
- (4) That Deed from Arbel Weinmer and Harry Weinmer to the Missouri, Kansas and Northwestern Railroad Company dated September 30, 1901 and

filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 20.

(5) That Deed from Mattie Humphrey and P.M. Humphrey to the Missouri, Kansas and Northwestern Railroad Company dated September 30, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 13.

(6) That Deed from James P. Hansen and wife to the Missouri, Kansas and Northwestern Railroad Company dated September 7, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 12.

(7) That condemnation conveying from Theodore W. Goldsberry to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78, Page 136.

#### ALSO

All that portion of said Railroad Company's 140.0 foot wide Branch Line right of way, being 70.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $S\frac{1}{2}NE\frac{1}{4}$  of said Section 19, T33S, R24E; bounded between the South line of said  $S\frac{1}{2}NE\frac{1}{4}$  and a line drawn at right angles to said Main Track centerline distant 935.0 feet Southeasterly of the West line of said  $S\frac{1}{2}NE\frac{1}{4}$  as measured along said Main Track centerline; said hereinabove described premises being a portion of the same conveyed from Theodore W. Goldsberry to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78, on Page 136; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $NE\frac{1}{4}SE\frac{1}{4}$  of said Section 19, T33S, R24E; bounded between the North line of said  $NE\frac{1}{4}SE\frac{1}{4}$  and a line drawn parallel with and distant 1196.0 feet Southeasterly of the North line of said  $NE\frac{1}{4}SE\frac{1}{4}$  as measured along said Main Track centerline, said parallel line also being the South line of an East-West running road which runs across said  $NE\frac{1}{4}SE\frac{1}{4}$ ; the hereinabove being a portion of the same premises conveyed from Esther A. McKinney to the Missouri, Kansas, and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 140.0 foot wide Branch Line right of way, being 70.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $SE\frac{1}{4}NE\frac{1}{4}SE\frac{1}{4}$  of said Section 19, and the  $W\frac{1}{2}SW\frac{1}{4}$  of said Section 20; all in T33S, R24E; bounded between a line drawn parallel with and distant 1196.0 feet Southeasterly of the North line of the  $NE\frac{1}{4}SE\frac{1}{4}$  of said Section 19, said parallel line also being the South line of the East-West running road which runs across said  $NE\frac{1}{4}SE\frac{1}{4}$  of said Section 19 and a line drawn at right angles to said Main Track centerline distant 582.5 feet Northwesterly of the East line of said  $W\frac{1}{2}SW\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being a portion of the same premises conveyed from Esther A. McKinney to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed

for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $S\frac{1}{2}SW\frac{1}{4}$  of said Section 20, T33S, R24E; bounded between two lines drawn at right angles to said Main Track centerline distant, respectively, 582.5 feet Northwesterly and 317.5 feet Southeasterly of the West line of the  $SE\frac{1}{4}SW\frac{1}{4}$  of said Section 20 as measured along said Main Track centerline; the hereinabove described premises being a portion of the same premises conveyed by the following:

- (1) That condemnation conveying from Esther A. McKinney to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.
- (2) That Deed from John M. Cooper and Emily Cooper to the Missouri, Kansas and Northwestern Railroad Company dated September 4, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 10

#### ALSO

All that portion of said Railroad Company's 160.0 foot wide Branch Line right of way, being 80.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $S\frac{1}{2}SE\frac{1}{4}SW\frac{1}{4}$  of said Section 20, the  $NE\frac{1}{4}NW\frac{1}{4}$ , the  $W\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ , and the  $SE\frac{1}{4}NE\frac{1}{4}$  of said Section 29, all in T33S, R24E; bounded between the East line of said  $SE\frac{1}{4}NE\frac{1}{4}$  of said Section 29 and a line drawn at right angles to said Main Track centerline distant 317.5 feet Southeasterly of the West line of said  $SE\frac{1}{4}SW\frac{1}{4}$  of said Section 20 as measured along said Main Track centerline; the hereinabove being a portion of the same premises conveyed by the following instruments:

- (1) That Deed from John M. Cooper and Emily Cooper to the Missouri, Kansas and Northwestern Railroad Company dated September 4, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 10.
- (2) That Deed from Charles Walker and Mary Walker to the Missouri, Kansas and Northwestern Railroad Company by instrument dated August 22, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 49;
- (3) That Deed from Magmie L. Henderson and H. B. Henderson to the Missouri, Kansas and Northwestern Railroad Company dated October 4, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 11.
- (4) That Deed from Ira D. Brainard and Mary Brainard to the Missouri, Kansas and Northwestern Railroad Company dated August 31, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 15.

ALSO

All that portion of the SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 29, T33S, R24E lying Southwesterly of a line drawn parallel with and distant 100.0 feet Northeastly of, as measured at right angles to, said Railroad Company's Main Track centerline; the hereinabove being the same premises conveyed from John A. Ratcliff and Cordelia A. Ratcliff to the Missouri, Kansas and Northwestern Railroad Company by instrument dated August 13, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 14; also,

All that portion of said Railroad Company's 200.0 foot wide Branch Line right of way, being 100.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 29, T33S, R24E; bounded between the North line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  and a line drawn radially to said Main Track centerline distant 304.0 feet Southeasterly of the North line of said NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being a portion of the same premises conveyed from Harvey Wimmer and A. Wimmer to the Missouri, Kansas and Northwestern Railroad by instrument dated September 30, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 6; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 29; the N $\frac{1}{2}$ SW $\frac{1}{4}$ , the NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ , the S $\frac{1}{2}$ SE $\frac{1}{4}$  of said Section 28; all in T33S, R24E; bounded between a line drawn radially to said Main Track centerline distant 304.0 feet Southeasterly of the North line of said N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  as measured along said Main Track centerline and a line drawn at right angles to said Main Track centerline distant 752.0 feet Northwesterly of the East line of said N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being the same or a portion of the same premises conveyed by the following:

- (1) That Deed from Harvey Wimmer and A. Wimmer to the Missouri, Kansas and Northwestern Railroad Company dated September 30, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 6.
- (2) That Deed from Thomas E. Devoe and Cassie Devoe to the Missouri, Kansas and Northwestern Railroad Company dated September 27, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 21.
- (3) That Deed from William H. Dugger and Nancy Dugger to the Missouri, Kansas and Northwestern Railroad Company dated August 20, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 54.
- (4) That condemnation conveying from J. C. Byrd to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.

ALSO

All that portion of said Railroad Company's 140.0 foot wide Branch Line right of way, being 70.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $SE\frac{1}{4}SE\frac{1}{4}$  of said Section 28, T33S, R24E; bounded between two lines drawn at right angles to said Main Track centerline distant, respectively, 752.0 feet and 352.0 feet Northwesterly of the East line of said  $SE\frac{1}{4}SE\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being a portion of the premises conveyed from J. C. Byrd to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.

ALSO

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $SE\frac{1}{4}SE\frac{1}{4}SE\frac{1}{4}$  of said Section 28 and the  $SW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$  of said Section 27, all in T33S, R24E; bounded between two lines drawn at right angles to said Main Track centerline distant, respectively, 352.0 feet Northwesterly and 248.0 feet Southeasterly of the West line of said  $SW\frac{1}{4}SW\frac{1}{4}SW\frac{1}{4}$  of Section 27, as measured along said Main Track centerline; the hereinabove being a portion of the same premises conveyed from J. C. Byrd to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 140.0 foot wide Branch Line right of way, being 70.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $SW\frac{1}{4}SW\frac{1}{4}$  of said Section 27, and the  $NE\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$  of said Section 34; all in T33S, R24E; bounded between a line drawn at right angles to said Main Track centerline distant 248.0 feet Southeasterly of the West line of said  $SW\frac{1}{4}SW\frac{1}{4}$  of said Section 27 as measured along said Main Track centerline and the East lines of said  $SW\frac{1}{4}SW\frac{1}{4}$  and said  $NE\frac{1}{4}NW\frac{1}{4}NW\frac{1}{4}$ ; the hereinabove being a portion of the same premises conveyed from J. C. Byrd to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $SW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$  of said Section 27 and the  $NW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$  of said Section 34; all in T33S, R24E; bounded between the West line of said  $SW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$  and said  $NW\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$  and a line drawn at right angles to said Main Track centerline distant 525.0 feet Southeasterly of the West line of said  $SW\frac{1}{4}SE\frac{1}{4}SW\frac{1}{4}$  of Section 27 as measured along said Main Track centerline; the hereinabove being the same premises conveyed from John J. West and Ellen West to the Missouri, Kansas and Northwestern Railroad Company by deed dated September 25, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas on October 28, 1901 in Book 56 on Page 52; the hereinabove also being a portion of the same premises conveyed from Thomas A. Smith to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 140.0 foot wide Branch Line right of way, being 70.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $N\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$  of said Section 34, T33S, R24E; bounded between two lines drawn at right angles and radially to said Main Track centerline distant, respectively, 851.0 feet and 351.0 feet Westerly of the East line of said  $N\frac{1}{2}NE\frac{1}{4}NW\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being a portion of the same premises conveyed from Thomas A. Smith to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $NE\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$ , and the  $N\frac{1}{2}NE\frac{1}{4}$  of said Section 34; the  $S\frac{1}{2}N\frac{1}{2}NW\frac{1}{4}$ , the  $N\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ , the  $SW\frac{1}{4}NE\frac{1}{4}$ , the  $SE\frac{1}{4}SE\frac{1}{4}NE\frac{1}{4}$ , and the  $NE\frac{1}{4}SE\frac{1}{4}$  of said Section 35; the  $S\frac{1}{2}NW\frac{1}{4}SW\frac{1}{4}$ , the  $S\frac{1}{2}S\frac{1}{2}$  of said Section 36; all in T33S, R24E; the  $N\frac{1}{2}NE\frac{1}{4}NE\frac{1}{4}$  of said Section 1, T34S, R24E; and the  $N\frac{1}{2}NW\frac{1}{4}$ , the  $S\frac{1}{2}NW\frac{1}{4}NE\frac{1}{4}$ , and the  $S\frac{1}{2}NE\frac{1}{4}$  of said Section 6; the  $S\frac{1}{2}S\frac{1}{2}NW\frac{1}{4}$  of said Section 5, T34S, R25E; bounded between a line drawn at right angles to said Main Track centerline distant 351.0 feet Westerly of the East line of said  $NE\frac{1}{4}NE\frac{1}{4}NW\frac{1}{4}$  of Section 34, T33S, R24E as measured along said Main Track centerline and the South line of said  $S\frac{1}{2}S\frac{1}{2}NW\frac{1}{4}$  of Section 5, T34S, R25E; the hereinabove being the same or a portion of the same premises conveyed by the following instruments:

- (1) That condemnation conveying from Thomas A. Smith to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.
- (2) That Deed from Benjamin F. Arnold and Sarah Arnold to the Missouri, Kansas and Northwestern Railroad Company dated September 30, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 48.
- (3) That Deed from William H. Ellis and Mary Ellis to the Missouri, Kansas and Northwestern Railroad Company dated September 23, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 53.
- (4) That Deed from J. D. Clarkson and Ida C. Clarkson to the Missouri, Kansas and Northwestern Railroad Company dated September 3, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 43 on Page 526.
- (5) That Deed from Fred Walker and wife to the Missouri, Kansas and Northwestern Railroad Company dated September 4, 1901 and filed for record in the office of the Registrar of Deeds in and for Cherokee County, Kansas on October 28, 1901 in Book 56 on Page 8.
- (6) That condemnation conveying from W. H. McMullen to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.



- (7) That Deed from John Osborn and Wife to the Missouri, Kansas and Northwestern Railroad Company dated September 27, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 7.
- (8) That Deed from Mary E. Waldron and William R. Waldron to the Missouri, Kansas and Northwestern Railroad Company dated September 2, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 17.
- (9) That Deed from Catherine H. Townsend to the Missouri, Kansas and Northwestern Railroad Company dated October 5, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 50.
- (10) That Deed from Zimri Dixon and Emily Dixon to the Missouri, Kansas and Northwestern Railroad Company dated August 19, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 51.
- (11) That condemnation conveying from Demsey S. Mills to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.
- (12) That Deed from W. J. Darnell and E. M. Darnell to the Missouri, Kansas and Northwestern Railroad Company dated September 27, 1901 and filed for record on October 1, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 22.
- (13) That Deed from Samuel J. Livingston and Evangeline Livingston to the Missouri, Kansas and Northwestern Railroad Company dated September 23, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 47.
- (14) That Deed from Franklin P. Satterthwait to the Missouri, Kansas and Northwestern Railroad Company dated October 21, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 46.
- (15) That Deed from William H. Peters and Ellen M. Peters to the Missouri, Kansas and Northwestern Railroad Company dated September 30, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 45.

ALSO

All that portion of said Railroad Company's 130.0 foot wide Branch Line right of way, being 65.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the NE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 9, T34S, R25E; bounded between the North and East lines thereof; the hereinabove being the same premises conveyed from Milton Scott to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24,

1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $W\frac{1}{2}SE\frac{1}{4}$  of said Section 5, T34S, R25E; bounded between the East and West lines thereof; the hereinabove being the same premises conveyed from William P. Cowan to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 120.0 foot wide Branch Line right of way, being 60.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $SE\frac{1}{4}SE\frac{1}{4}$  of said Section 5 and the  $NE\frac{1}{4}NE\frac{1}{4}$  of said Section 8, T34S, R25E; bounded between the West line of said  $SE\frac{1}{4}SE\frac{1}{4}$  and the East line of said  $NE\frac{1}{4}NE\frac{1}{4}$ ; the hereinabove being the same premises conveyed by the following:

(1) That condemnation conveying from J. Barclay Foster to the Missouri, Kansas & Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.

(2) That deed from Ellwood Haworth and Mary Haworth to the Missouri, Kansas & Northwestern Railroad Company dated September 21, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 43.

#### ALSO

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $W\frac{1}{2}NW\frac{1}{4}$  and the  $W\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$  of said Section 9, T34S, R25E; bounded between the West line of said  $W\frac{1}{2}NW\frac{1}{4}$  and a line drawn at right angles to said Main Track centerline distant 2337.0 feet Southeasterly of said West line of the  $W\frac{1}{2}NW\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being the same or a portion of the same premises conveyed by the following instruments:

(1) That deed from William R. Moreland to the Missouri, Kansas and Northwestern Railroad Company dated September 2, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 44.

(2) That condemnation conveying from J. D. Clarkson to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.

#### ALSO

An additional 50.0 foot wide strip lying adjacent to and Northeasterly of the hereinabove described 100.0 foot wide right of way situated in the  $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$  of

said Section 9, T34S, R25E, lying between two lines drawn parallel with and distant, respectively, 50.0 feet and 100.0 feet Northeasterly of, as measured at right angles to, said Main Track centerline, and bounded between the West line of said  $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$  and a line drawn at right angles to said Main Track centerline distant 537.0 feet Southeasterly of said West line of the  $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being a portion of the premises conveyed from William R. Moreland to the Missouri, Kansas and Northwestern Railroad Company by deed dated September 2, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 44; also,

An additional 50.0 foot wide strip lying adjacent to and Southwesterly of the hereinabove described 100.0 foot wide right of way situated in the  $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$  of said Section 9, T34S, R25E lying between two lines drawn parallel with and distant, respectively, 50.0 feet and 100.0 feet Southwesterly of, as measured at right angles to, said Main Track centerline, and bounded between the West line of said  $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$  and a line drawn parallel with and distant 400.0 feet Easterly of, as measured at right angles to, said West line of the  $W\frac{1}{2}NW\frac{1}{4}NW\frac{1}{4}$ ; the hereinabove being a portion of the same premises conveyed by the following instruments:

- (1) That deed from William R. Moreland to the Missouri, Kansas and Northwestern Railroad dated September 2, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 44.
- (2) That deed from Ellen J. Scammon to the Missouri, Kansas and Northwestern Railroad Company dated September 13, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 41.

#### ALSO

All that portion of said Railroad Company's 160.0 foot wide Branch Line right of way, being 80.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $S\frac{1}{2}SE\frac{1}{4}NW\frac{1}{4}$ , the  $N\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$ , and the  $NW\frac{1}{4}SE\frac{1}{4}$  of said Section 9, T34S, R25E; bounded between two lines drawn at right angles to said Main Track centerline distant, respectively, 1350.0 feet Northwesterly and 1150.0 feet Southeasterly of the West line of said  $NW\frac{1}{4}SE\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being the same or a portion of the same premises conveyed by the following instruments:

- (1) That condemnation conveying from J. D. Clarkson to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.
- (2) That deed from William F. Sapp to the Missouri, Kansas and Northwestern Railroad Company dated September 5, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 23.
- (3) That deed from the John M. Cooper Mercantile and Mining Company to the Missouri, Kansas and Northwestern Railroad Company dated September 4,

1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 29.

ALSO

All that portion of that parcel conveyed from Spencer Chemical Company to the Missouri, Kansas and Texas Railroad Company by instrument dated March 11, 1954 and filed for record on October 21, 1954 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 159 on Pages 209 and 210, and described in said instrument as follows:

A tract or parcel of land 21 feet in width and 962.6 feet, more or less, in length being a part of the Spencer Chemical Property out of the Northwest Quarter of Section 9, Township 34 South, Range 25 East near Military, Cherokee County, Kansas, being all of the land 21 feet in width lying between two parallel, partly curved and partly straight, outside boundary lines, distant 7 feet westerly from and 14 feet easterly from the following described center line of said storage track, lying outside of and northerly from the Missouri-Kansas-Texas Railroad Company's Joplin Subdivision Main Track northerly right of way line, said right of way line being 50 feet northerly at right angles from the center line of the Railroad Company's Main Track. Said boundary lines to extend northerly from the Railroad Company's said northerly right of way line to the point of switch of said storage track, located on the center line of the Spencer Chemical Company's South Wye Track, opposite storage track chaining station 12 plus 80; Beginning at a point in the Railroad Company's said northerly right of way line in the center line of said storage track at chaining station 3 plus 17.4 on said track; Thence deflecting an angle of 8 degrees 45 minutes to the right northwesterly from said northerly right of way line for tangent to curve of said center line of storage track; Thence northwesterly by arc of curve to the right, having a radius of 1132.28 feet, parallel with and 14 feet northeasterly from the center line of said South Wye Track, a distance of 780.6 feet to a point of reverse curve; Thence by arc of curve to the left, having a radius of 603.29 feet, a distance of 75.3 feet to a point of tangent; Thence northwesterly, along tangent to last described curve, a distance of 37.7 feet to a point of frog; Thence northwesterly through a No. 8 Turnout, a distance of 69.0 feet to the point of ending said easement at the point of switch of said storage track at storage track chaining station 12 plus 80.

ALSO

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $N\frac{1}{2}SE\frac{1}{4}$  of said Section 9, T34S, R25E bounded between the East line of said  $N\frac{1}{2}SE\frac{1}{4}$  and a line drawn at right angles to said Main Track centerline distant 1150.0 feet Southeasterly of the West line of said  $N\frac{1}{2}SE\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being a portion of the same premises conveyed from The John M. Cooper Mercantile and Mining Company by instrument dated September 4, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 29; also,

All that portion of said Railroad Company's 160.0 foot wide Branch Line right of way, being 80.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the SW $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$  and the NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 10, T34S, R25E; bounded between the West line of the SW $\frac{1}{4}$  of Section 10 and a line drawn at right angles to said Main Track centerline distant 464.0 feet Southeasterly of said West line of the SW $\frac{1}{4}$  of Section 10 as measured along said Main Track centerline; the hereinabove being the same premises conveyed from Katherine M. Blair to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$  and the SE $\frac{1}{4}$ SW $\frac{1}{4}$  of said Section 10; the NE $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , the N $\frac{1}{2}$ NE $\frac{1}{4}$ , and the SE $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 15, T34S, R25E; bounded between the East line of said SE $\frac{1}{4}$ NE $\frac{1}{4}$  of Section 15 and a line drawn at right angles to said Main Track centerline distant 464.0 feet Southeasterly of the West line of the SW $\frac{1}{4}$  of said Section 10 as measured along said Main Track centerline; the hereinabove being the same premises conveyed from:

(1) The Bonanza Lead and Zinc Company to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 19, 1901 and filed for record on November 13, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 55 on Page 495; also,

(2) The John M. Cooper Mercantile and Mining Company to the Missouri, Kansas and Northwestern Railroad Company by instrument dated September 4, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 29; also,

(3) P. J. Fleming et al. to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record in the office of the Registrar of Deeds in and for Cherokee County, Kansas on February 24, 1911 in Book 78 on Page 36.

#### ALSO

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 14, T34S, R25E; bounded between the West line of said SW $\frac{1}{4}$ NW $\frac{1}{4}$  and a line drawn parallel with and distant 50.0 feet Northwesterly of, as measured radially to, Burlington Northern Railroad Company's (formerly St. Louis and San Francisco Railroad Company's) Main Track centerline as now located and constructed; the hereinabove being a portion of the same premises conveyed from Gabriel Schmuck to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's right, title and interest in that right of way crossing situated in the SW $\frac{1}{4}$ NW $\frac{1}{4}$  of said Section 14, T34S, R25E granted from the former St. Louis and San Francisco Railroad Company to the Missouri, Kansas and Northwestern Railroad by contract dated December 18, 1901; also,

All that portion of said Railroad Company's 160.0 foot wide Branch Line right of way, being 80.0 feet wide on each side of said Railroad Company's Main Track centerline situated in the  $S\frac{1}{2}SW\frac{1}{4}NW\frac{1}{4}$  of said Section 14, T34S, R25E; bounded between a line drawn parallel with and distant 50.0 feet Southeasterly of, as measured radially to, Burlington Northern Railroad Company's (formerly St. Louis and San Francisco Railroad Company) Main Track centerline and a line drawn at right angles to said Main Track centerline distant 773.4 feet Southeasterly of the West line of said  $SW\frac{1}{4}NW\frac{1}{4}$  as measured along said Main Track centerline; the hereinabove being a portion of the same premises conveyed from Gabriel Schmuck to the Missouri, Kansas and Northwestern Railroad Company by condemnation dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the  $S\frac{1}{2}S\frac{1}{2}NW\frac{1}{4}$  and the  $N\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$  of said Section 14, T34S, R25E; bounded between the East line of said  $N\frac{1}{2}NE\frac{1}{4}SW\frac{1}{4}$  of said Section 14 and a line drawn at right angles to said Main Track centerline distant 773.4 feet Southeasterly of the West line of the  $SW\frac{1}{4}NW\frac{1}{4}$  of said Section 14 as measured along said Main Track centerline; the hereinabove being the same or a portion of the same premises conveyed by the following instruments:

- (1) That condemnation conveying from Gabriel Schmuck et al. to the Missouri, Kansas, and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County in Book 78 on Page 136.
- (2) That Deed conveying from the Windsor Lead and Zinc Company to the Missouri, Kansas, and Northwestern Railroad Company dated November 1, 1901 and filed for record on February 3, 1902 in the office of the Registrar of Deeds in and for Cherokee County in Book 58 on Page 8.
- (3) That condemnation conveying from O. H. Pitcher et al. to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.

ALSO

All that portion of the  $SW\frac{1}{4}NE\frac{1}{4}$  of said Section 14, T34S, R25E, described as follows:

Beginning at the center corner of said Section 14; thence Magnetic Variation  $08^{\circ}25'E$  on the East-West centerline of said Section 14 a distance of 403.5 feet to a point on the West line of said Main Street in Galena, Kansas; thence deflecting to the left with an angle of  $89^{\circ}50'$  on a bearing of  $N00^{\circ}10'E$  on the West line of said Main Street produced a distance of 43.1 feet; thence deflecting to the left with an angle of  $93^{\circ}37'$ , bearing  $S86^{\circ}33'W$ , a distance of 288.2 feet to a point; thence curving to the right with a radius of 2814.93 feet an arc distance of 117.0 feet to a point in the North-South centerline of said Section 14; thence South a distance of 21.5 feet to the Point of Beginning; the hereinabove being a portion of the same premises conveyed from the Windsor Lead and Zinc Company to the Missouri, Kansas and Northwestern Railroad Company by deed dated November 1, 1901 and filed for record on February 3, 1902 in

the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 58 on Page 8; also,

All that portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 14, T34S, R25E, described as follows:

Beginning at the Southeast corner of the above described SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence West (Magnetic Variation 03°25'E) on the South line of said land a distance of 841.1 feet to the East line of Main Street, according to the recorded plat thereof in Galena, Kansas; thence deflecting to the right with an angle of 90°10' bearing N00°10'E on the East line of said Main Street produced, a distance of 97.9 feet; thence deflecting to the right with an angle of 86°23' bearing N86°33'E, a distance of 842.6 feet to a point in the East line of the above described SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence deflecting to the right with an angle of 93°33', bearing S00°16'W, a distance of 147.4 feet to the Point of Beginning; also,

All that portion of the right of way of Main Street, according to the recorded plat thereof, lying between the East-West centerline of said Section 14 and the Westerly projection of the Northerly line of the hereinabove described parcel.

The hereinabove being a portion of the same premises conveyed from the Windsor Lead and Zinc Company to the Missouri, Kansas and Northwestern Railroad Company by deed dated November 1, 1901 and filed for record on February 3, 1902 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 58 on Page 8; also,

All that portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 14, T34S, R25E, described as follows:

Beginning at a point distant 403.5 feet East of the Northwest corner of said NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; thence Southerly along the West line of Main Street for a distance of 74.0 feet; thence Westerly parallel with the North line of said NW $\frac{1}{4}$ SE $\frac{1}{4}$  for a distance of 100.0 feet; thence Northerly parallel with the West line of Main Street a distance of 74.0 feet to the North line of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ ; thence Easterly 100.0 feet to the Point of Beginning; the hereinabove being the same premises conveyed from Thomas Kennedy and Nellie Kennedy to the Missouri, Kansas and Northwestern Railroad Company by deed dated November 1, 1901 and filed for record on November 13, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 58; also,

All that portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  of said Section 14, T34S, R25E, described as follows:

Beginning at a point 483.5 feet East of the Northwest corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ , Section 14; thence South along the East side of Main Street in the City of Galena, Kansas, according to the recorded plat thereof, a distance of 100.0 feet; thence Easterly parallel with the North line of said quarter section 374.0 feet, more or less, to an intersection with the boundary line of the right of way of the Burlington Northern Railroad Company (formerly St. Louis and San Francisco Railroad Company), said right of way line being distant 12.5 feet Northerly of, as measured at right angles to, the centerline of said former St. Louis and San Francisco Railroad Company; thence Northeasterly parallel with said Main Track centerline to an

intersection with the North boundary line of said quarter section; thence West along the North boundary line of said quarter section to the Point of Beginning; also,

All that portion of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  in said Section 14, T34S, R25E, described as follows:

Beginning at the Northwest corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$  in said Section 14; thence running East on the North boundary line of said quarter section 303.5 feet; thence South 74.0 feet; thence West parallel with the North line of said quarter section 236.0 feet, more or less, to the East line of Short Street (extended Northerly); thence Westerly parallel with said former Missouri, Kansas and Northwestern Railroad Company's Main Track centerline to the West boundary line of said SE $\frac{1}{4}$ ; thence North along said West boundary line 85.0 feet, more or less, to the Point of Beginning; the hereinabove described premises being the same premises conveyed from the Galena Lead and Zinc Company to the Missouri, Kansas and Northwestern Railroad Company by deed dated January 21, 1905.

ALSO

That portion of the SW $\frac{1}{4}$ NE $\frac{1}{4}$  of said Section 14, T34S, R25E, described as follows:

Commencing at the Southeast corner of said SW $\frac{1}{4}$ NE $\frac{1}{4}$ ; thence N00°16'E (with a magnetic variation of 08°25'E), on the East line of said SW $\frac{1}{4}$ NE $\frac{1}{4}$  a distance of 147.4 feet to the Point of Beginning; thence continuing N00°16'E on said East line a distance of 25.0 feet; thence S72°47'W, a distance of 104.6 feet; thence N86°33'E, a distance of 100.0 feet to the Point of Beginning; the hereinabove being the same premises conveyed from the Windsor Lead and Zinc Company to the Missouri, Kansas and Texas Railway Company by instrument dated August 13, 1903 and filed for record on August 25, 1903 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 46 on Page 351; also,

All that portion of said Railroad Company's right of way upon, over and across the streets and alley ways of Galena, Kansas, which include but are not limited to the following: Division Street, Millikin Avenue, Prospect Street, Spelter Avenue, Water Street, Wood Street, Grand Avenue, North Avenue and Summit Street; and Cooper Street, Bellevue Street and the alley way of Block 19, Brinkerhoff's Addition to the City of Galena, and the alley ways of Blocks 1, 5 and 9 of the East Forty Addition to the City of Galena, Kansas, all according to the recorded plat thereof; the hereinabove being the same premises conveyed from the City of Galena, Kansas to the Missouri, Kansas and Northwestern Railroad Company by City ordinance dated November 8, 1901; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across Lots 2, 3, 4, 5, 6, 7, 8 and 9 in Block 1; Lots 7, 8 and 9 in Block 6; Lots 1, 2, 3, 4, 7, 8, 9, 10, 11 and 12 in Block 5; Lot 6 in Block 8; Lots 1, 2, 3, 6, 7, 8, 9, 10, 11 and 12 in Block 9; Lots 1, 2, 3, 4 and 5 in Block 10; Lots 8, 9 and 10 in Block 20; all in Brinkerhoff's Addition to the City of Galena, Kansas; also,

All that part of Block 19 in said addition lying Southeasterly of a line drawn from a point on the North line of said block 104.0 feet West of the Northeast corner thereof, to a point on the West line of said block 180.0 feet South of its Northwest corner; also,



All that part of Block 28 lying Southeasterly of a line drawn from a point on the East line of said Block 118.0 feet North from the Southeast corner thereof, to a point on the South line of said block, 43.0 feet East of its Southwest corner; also,

All that part of Block 27 of said addition lying Northwesterly of a line drawn from a point on the North line of said Block 100.0 feet West of the Northeast corner thereof, to the Southwest corner of said block; the hereinabove being the same premises conveyed from William E. Brinkerhoff to the Missouri, Kansas and Northwestern Railroad by instrument dated December 28, 1901 and filed for record on February 3, 1902 in the office of the Registrar of Deeds in and for Cherokee County in Book 58 on Page 4; also,

All that portion of said Railroad Company's 100.0 foot wide Branch Line right of way, being 50.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the N $\frac{1}{2}$ NW $\frac{1}{4}$ , T34S, R25E, bounded between the North and South lines thereof; the hereinabove being the same or a portion of the same premises conveyed by the following instruments:

- (1) That condemnation from the Boston & Missouri Lead and Zinc Company to the Missouri, Kansas and Northwestern Railroad Company by instrument dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.
- (2) That deed from M. Robeson and A. Robeson to the Missouri, Kansas and Northwestern Railroad Company dated October 24, 1901 and filed for record on October 28, 1901 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 56 on Page 42.

#### ALSO

All that portion of said Railroad Company's 150.0 foot wide Branch Line right of way, being 75.0 feet wide on each side of said Railroad Company's Main Track centerline upon, over and across the NE $\frac{1}{4}$  of said Section 13, T34S, R25E and the S $\frac{1}{2}$ SE $\frac{1}{4}$  of said Section 12, T34S, R25E; bounded between the West line of said NE $\frac{1}{4}$  of Section 13 and the East line of said S $\frac{1}{2}$ SE $\frac{1}{4}$  of said Section 12; the hereinabove being the same premises conveyed by condemnations from the Boston and Missouri Lead and Zinc Company and Cormick Ferguson to the Missouri, Kansas and Northwestern Railroad Company by instruments dated October 1, 1901 and filed for record on February 24, 1911 in the office of the Registrar of Deeds in and for Cherokee County, Kansas in Book 78 on Page 136.

Columbus to Horn (Cherokee County, KS)



BURLINGTON  
NORTHERN  
RAILROAD

30001742

62-20  
311

TITLE SERVICES

999 Third Avenue/2100 FIC

Seattle, WA - 98104

DATE May 29, 1991

AMOUNT

\$287,510.00\*\*

TWO HUNDRED EIGHTY-SEVEN THOUSAND FIVE HUNDRED TEN AND NO/100 DOLLARS

PAY TO THE ORDER OF

Missouri Pacific Railroad Company

1416 Dodge Street

Omaha, NE - 68179

*COPY*

*[Signature]*  
AUTHORIZED SIGNATURE

Director - Title Services

Citibank (Delaware)  
NEW CASTLE, DELAWARE 19721

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